

2002

Utah Department of Transportation v. G. Kay Inc. : Addendum to Appellant's Brief

Utah Supreme Court

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Edward O. Ogilvie; Asisstant Attorney General; Mark L. Shurtleff; Attorney General; Attorneys for the Plaintiff/Appellee.

George K. Fadel; Attorney for Defendant/Appellant.

Recommended Citation

Legal Brief, *Utah Department of Transportation v. G. Kay Inc.*, No. 20020063.00 (Utah Supreme Court, 2002).
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170 WEST FOURTH SOUTH
BOUNTIFUL, UTAH 84010
TELEPHONE 295-2421

IN THE UTAH SUPREME COURT

UTAH DEPARTMENT OF TRANSPORTATION,)

Plaintiff and Appellee,)

vs.

G. KAY, INC.,)

Defendant and Appellant,)

Supreme Court No. 20020063 SC

ADDENDUM TO APPELLANT'S BRIEF

CONTENTS

1. FINDINGS OF FACT AND CONCLUSIONS OF LAW.
2. ORDER OF IMMEDIATE OCCUPANCY.
3. DEFENDANT'S EXHIBIT # 7, TRANSCRIPTION OF LEGISLATIVE PROCEEDINGS, SENATE BILL 256.
4. Appellant's Letter January 24, 2002 tendering \$2395.89 to Clerk under protest re: deposit of account at interest.
5. Appellee's response to letter of Appellant.
6. The Affidavit of Byron Parker is bulky and is submitted in a separate attachment.

SEPARATE ATTACHMENT

AFFIDAVIT OF BYRON PARKER

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Assistant Attorney General
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Attorney General
Attorneys For Plaintiff
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P O Box 140857
Salt Lake City, Utah 84114-0857
Telephone: (801) 366-0218

IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR
DAVIS COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

G. KAY, INC.; and DAVIS COUNTY
TREASURER,

Defendant.

AFFIDAVIT OF BYRON M. PARKER

Civil No.010801039

Judge Glen R. Dawson

STATE OF UTAH)
 :SS.
COUNTY OF SALT LAKE)

BYRON M. PARKER, being first duly sworn under oath hereby enters the following
Affidavit:

1. My name is Byron M. Parker. I am a resident of Utah, age 64 years. I am a
Professional Engineer with 38 years experience in civil engineering, with 21 years of that
experience with the Utah Department of Transportation (“UDOT”). I am the Project Director for

the UDOT Legacy Parkway Project, and I have held this position since 1997. I am making this Statement of my own free will and based on my own knowledge.

2. The Legacy Parkway Project is an entirely state-funded highway of approximately 14 miles between I-215 in North Salt Lake and the I-15/U.S. 89 interchange in Farmington, and includes acquisition and suitable development of approximately 2100 acres to be set aside and protected as the State of Utah Legacy Nature Preserve. There is no federal funding of the Parkway or the Legacy Nature Preserve. UDOT, along with the Governor, the State Transportation Commission, the Wasatch Front Regional Council and other state and local entities, has been engaged in planning the Legacy Parkway Project for many years.

3. The Legacy Nature Preserve was proposed by the Governor and UDOT to accommodate the interests of the State of Utah in the protection of wetlands, wildlife habitat, and other natural resource values. The Governor originally announced the Legacy Nature Preserve in June, 1998. The Governor, UDOT and other state and local government officials concluded that preservation of areas adjacent to the Great Salt Lake ecosystem would help protect Utah's natural resources and ameliorate concerns of certain community groups over both the impacts of the proposed Parkway and ongoing regional development. The proposed Legacy Nature Preserve was described in UDOT's application to the Corps of Engineers for a permit under Section 404, a copy of which is attached as Exhibit 1.

4. As originally proposed by Utah, the Legacy Nature Preserve had approximately

1298 acres. The location of the 1298-acre Legacy Nature Preserve is set forth in, among other places, the Section 404 permit application and the Federal Highway Administration Record of Decision, copies of which are attached as Exhibit 1 and Exhibit 2. Prior to the funding by the State Legislature in 2001, UDOT expanded the Legacy Nature Preserve to approximately 2100 acres. The full Preserve is described in the Corps of Engineers Record of Decision, a copy of which is attached as Exhibit 3. UDOT intends to acquire and develop the full Legacy Nature Preserve as it is now configured.

5. In 1997, UDOT commenced the process of obtaining necessary federal approvals for the Legacy Parkway. The Legacy Parkway needed approval from the Federal Highway Administration to connect with the Interstate Highway and National Highway systems at each terminus. The Legacy Parkway involves filling of wetlands regulated under the Clean Water Act, and thus required a permit issued by the U.S. Army Corps of Engineers under Section 404 of that Act. The final required federal approval was obtained by UDOT in January 2001.

6. Representatives of UDOT advised the members of the Legislature of UDOT's intent to acquire or initiate acquisition of all needed land during calendar year 2001, and thereafter, the Utah Legislature authorized and appropriated funds to enable UDOT to acquire the property needed for the Legacy Parkway, including the Parkway right-of-way and the Legacy Nature Preserve.

7. For planning purposes, including budget and other responsibilities to the State

Legislature, UDOT uses a “critical path” planning schedule for the Legacy Parkway. The “critical path” schedules the essential steps to assure that the Project is completed on time and effectively and efficiently. For a Project of this magnitude, with many engineering, environmental, public safety, traffic flow and other considerations, the “critical path” planning mechanism assures the completion of prerequisites to full construction in an orderly manner.

8. Land acquisition for the Legacy Parkway is a calendar year 2001 “critical path” item. UDOT believes that land acquisition at the beginning of the project is necessary for the following reasons:

a. To keep the Project on schedule, UDOT represented prior to the bidding, and made an agreement with the contractor for the Project that it would have control, through acquisition or orders of immediate occupancy, of all Project land in 2001. The contractor relies on this assurance to further plan construction activity. Even those lands scheduled for construction in later years must be acquired now for control, staging, preservation of their status quo condition, surveying, site analysis, utility relocation, and other work.

b. It is in the interests of the people of Utah to assure that the land for the Legacy Nature Preserve be acquired and maintained in a status quo condition, rather than being subject to changes or improvements inconsistent with the goals and intentions of the Preserve. These objectives include providing lands to mitigate the Project’s impacts

to wetlands, wildlife, and open space by acquiring and preserving lands identified as important wetlands, and adjacent uplands in the area of the project, and by acquiring and preserving for later improvement lands that are susceptible of being adapted for wildlife and wetland habitat.

c. It is in the interests of the people of Utah that acquisition of lands for the entire Project occur at an early time, when the price of the land is at or within close range of the estimates used by the Legislature to appropriate the funds.

d. Consistent with the State's interests in early land acquisition, UDOT proposed and accepted terms in the Section 404 Permit that address the amount, type, and timing of land acquisition and require acquisition of the Legacy Preserve lands within the first calendar year; i.e. the end of 2001.

e. The State Legislature has appropriated the funds for calendar year 2001.

9. From 1998 through issuance of the Section 404 permit, the federal agencies have never directed Utah to acquire any particular property for mitigation. Utah proposed the quality, quantity and location for mitigation that it deemed appropriate and feasible. As the federal NEPA and permit process continued, and additional mitigation lands were added, Utah decided what to acquire based on cost, use and adaptability for wildlife habitat, potential wetland values, location, and other factors. The G. Kay, Inc., property was added on to the original 1298-acre Legacy Nature Preserve in order to meet or satisfy 404 Permit requirements. Furthermore, the

property is suitable for the Preserve and contiguous to other areas that Utah considered suitable. Federal permitting agencies do not tell or order permit applicants to acquire specific mitigation properties. Rather, the permit applicant must develop a mitigation plan acceptable, using its own judgment and criteria, for land acquisition.

10. The 2100 acre Legacy Nature Preserve will provide wildlife habitat, educational and recreation opportunities, scenic vistas, and other natural resource values for the State. It also serves to satisfy wetland and other mitigation requirements developed with the Federal Highway Administration and the Corps of Engineers, incorporated in the Section 404 Permit. The 2100 acre Preserve does not exist solely to provide mitigation for impacts to wetlands from the Legacy Parkway. The Preserve will include uplands as well as wetlands to provide wildlife and other natural resource values.

11. G. Kay, Inc. owns property that is required for the Legacy Parkway Project. Approximately .805 acres of the property are within the right of way for the Legacy Parkway (Parcel No. 146D). Approximately 32.71 acres are in the Legacy Nature Preserve. Each of the identified alternative alignments for the Parkway, including Alignment A, require acquisition of the .805 acres since the alignments are essentially the same for this segment of the Parkway.

12. The 404 Permit issued by the Army Corps of Engineers includes restrictions which, among others, prohibit hunting on all mitigation lands. Exhibit 3 at p. 41.

13. UDOT has prepared and filed its Condemnation Resolution for Highway Project

No. SP-0067 setting forth UDOT's determination that G. Kay Inc.'s lands are necessary for the projects' construction and for mitigation of the impacts from the highway construction which Resolution is attached as Exhibit A to the Complaint filed in this matter.

14. UDOT is well aware that various parties have challenged the federal approvals and federal permits issued for the Legacy Parkway Project. UDOT has considered whether it would be in the interests of the people of Utah to defer some or all land acquisition for the Project pending resolution of any of these federal challenges. UDOT has concluded that it is not in the interest of the State to delay and will go forward with land acquisition in 2001 for the reasons explained in this Affidavit, including:

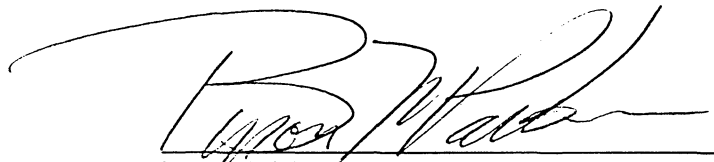
- a. Delay would result in additional costs to the State, in land prices.
- b. Delay could result in changes to the character of the land, such as alterations of property in the Legacy Nature Preserve, lessening its value for wildlife habitat.
- c. Compliance with State funding authorizations warrants acquisition during 2001.
- d. UDOT must meet its acquisition obligations to assure that the design-build contractor stays on the "critical path" for the Project.
- e. Acquisition during 2001 is consistent with the terms of the Section 404 Permit and the approved Wetland Mitigation Plan.

f. UDOT cannot estimate how long any federal litigation, including possible appeals, would continue. If there are appeals, UDOT may not be in a position to evaluate the impact of this federal litigation on the future of the Project until sometime in 2002 or later.

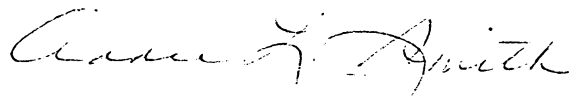
g. UDOT has authority subject to the owner's right of first refusal to resell land acquired for the Legacy Parkway Project, including mitigation lands, if, in the future, it is in the interests of the State to do so.

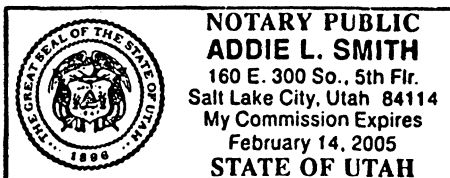
Further the affiant saith naught.

I declare under penalty of perjury that the forgoing is true and correct, to the best of my knowledge and belief.


Byron M. Parker, P.E.

Aug 9, 2001
Date

NOTARY: 



ing existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send
nts regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to
ment of Defense, Washington Headquarters, Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite
rlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503.
DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having
tion over the location of the proposed activity.

PRIVACY ACT STATEMENT

ty: 33 USC 401, Section 10: 1413, Section 404. Principal Purpose: These laws require authorizing activities in, or affecting, navigable waters
United States, the discharge or fill material into waters of the United States, and the transportation of dredged material for the purpose of
ig it into ocean waters. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure:
ure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a
be issued.

t of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this
tion (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed
. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
--------------------	----------------------	------------------	-------------------------------

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME Parker Department of Transportation	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required)
6. APPLICANT'S ADDRESS 3. 700 E. 100A Lake City, UT 84107	9. AGENT'S ADDRESS
7. APPLICANT'S PHONE NOS. W/AREA CODE Residence Business 801-281-9507	10. AGENT'S PHONE NOS. W/AREA CODE a. Residence b. Business

STATEMENT OF AUTHORIZATION

I authorize, _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental
information in support of this permit application.

APPLICANT'S SIGNATURE

DATE

NAME, LOCATION, AND DESCRIPTION OR PROJECT OR ACTIVITY

11. PROJECT NAME OR TITLE (see instructions) Parkway	14. PROJECT STREET ADDRESS (if applicable)
12. LOCATION OF WATERBODY, IF KNOWN (if applicable) the wetlands, streams, and the Jordan River (attached maps)	
13. LOCATION OF PROJECT Davis and Salt Lake Counties UT	
COUNTY	STATE

15. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) Section, Township, Range, Lat/Lon, and/or Accessors's Parcel Number, for example.

Project begins at 2100 N and I-215 in Salt Lake City and ends at the junction of I-15 and U.S. 89 in Farmington.

16. DIRECTIONS TO THE SITE

Attached maps and location description and block 16 above.

will run from I-215 and 2100 N. Salt Lake City to the junction of I-15 and U.S. 89 in Farmington. It will require widening of I-215 from two lanes in each direction to three lanes in each direction from 2100 N to a point 450 meters of the Redwood Road interchange where a new interchange will be constructed on I-215.

ew highway then proceeds north and crossing Center Street and 900 N in North Salt Lake. Just north of 900 N, the
ceeds northeast and then north to a point 0.6 km (0.3 miles) west of the intersection of 500 South and Redwood
in Woods Cross. The PA continues north-northeast to a point 0.3 km (0.2 miles) west of 400 N in West Bountiful
then northeast 3.2 km (2.0 miles) to Porter Lane. The PA then turns east-northeast and crosses the D&RGRR about
m (0.30 miles) south of Parrish Lane in Centerville. The alignment then turns north, crosses Parrish Lane, and parallels
&RGRR on the eastern side for about 1.0 km (0.6 miles). The PA then turns northeast, crosses 1250 W in Centerville
continues over to the UPRR.

Centerville to Farmington, the PA parallels the existing UPRR and I-15 adjacent to and west of the power lines on the east side of the railroad. The PA then crosses under Glovers Lane and State Street (Clark Lane) and terminates at the interchange of I-15 and U.S. 89 at Burke Lane in Farmington. The entire I-15/U.S. 89 interchange will be reconstructed to provide connections from U.S. 89 to both I-15 and the Legacy Parkway. Burke Lane will be reconstructed and extended east to I-15 and the UPRR to connect with State Street (Clark Lane) at 1100 W in Farmington.

There are service interchanges at 500 S in Woods Cross and Parrish Lane in Centerville. There are overpasses at Center North Salt Lake and at Glovers Lane, State Street (Clark Lane), and Burke Lane in Farmington. There are underpasses (where a facility goes under the highway) at the D&RGRR, the Sheep Road, and 1250 W in Centerville. There will also be a pedestrian and equestrian overpass at Pages Lane to maintain access to the Bountiful Pond and the southern entrance to the Farmington Bay Waterfowl Management Area (FBWMA).

There are three frontage roads. One begins 0.7 km (0.4 miles) south of the proposed 500 S interchange in Woods Cross. The frontage road continues north, along the west side of the alignment, to the Bountiful Sanitary Landfill. The second frontage road begins at 1100 W in West Bountiful and proceeds northeast along the eastern side of the alignment to Porter Lane. The third frontage road is parallel to and on the west side of the alignment through Centerville; it begins east of the existing terminus of 1250 W and ends east of the southern terminus of 650 W.

re will also be a continuous trail for pedestrians, bicyclists, and equestrians. It will start near the Jordan River Parkway, the southern side of the I-215/Legacy Parkway interchange, and proceeds north under I-215 and the Legacy Parkway the east side of the alignment to approximately 0.75 km (0.5 miles) south of Parrish Lane. At this point the equestrian tion of the trail terminates. The remainder of the trail crosses under the alignment at its crossing of the D&RGRR onto Sheep Road and continues north to approximately 1000 N in Centerville. The trail continues parallel to and west of alignment as it turns northeast and begins to parallel the UPRR to State Street (Clark Lane) in Farmington.

are will be culverted crossings of Shepard, Farmington, Steed, Ricks, Barnard, Parrish, Duel/Stone, and Mill creeks and a bridge constructed over the Jordan River.

See attached drawings for location map, typical section, and details of location. Also, see attached additional information for the Preferred Alternative, Alternative A, and Alternative C.

Project Purpose (Describe the reason or purpose of the project, see instructions)

The purpose of the project is to help meet the traffic demand in the North Corridor (generally defined as from 600 N in Sa ke to 200 N in Kaysville) for the year 2020.

arge of fill material into waters of the U.S. is required in order to construct the highway.

vels) of Material Being Discharged and the Amount of Each Type in Cubic Yards

al will be clean fill capable of supporting a freeway. It will be obtained by the contractor at the time the highway
tructed. See attached figure of typical cross section. Clean bank stabilization material will be placed , as needed,
he banks of major water courses to prevent their erosion and erosion of the road.

rface Area in Acres of Wetlands or Other Waters Filled (see instructions)

atched spread sheet for the identification of each wetland that will be filled and the acreage that will be filled. In
n, there will be some fill and bank stabilization material associated with the new bridge crossing of the Jordan River
a culverted crossings of the following streams: Shepard Creek, Farmington Creek, Steed Creek, Ricks Creek, Barnard
Parrish Creek, Duel/Stone Creek, Mill Creek.

Any Portion of the Work Already Complete? Yes ☐ No ☒ IF YES, DESCRIBE THE COMPLETED WORK

resses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (If more than can be entered here, please attach a supplemental list).
tached list.

t of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
--------	---------------	-----------------------	--------------	---------------	-------------

have been received at this time. See attached list of permits that will be required.

include but is not restricted to zoning, building, and flood plain permits

plication is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this
plication is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as
a duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

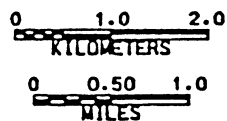
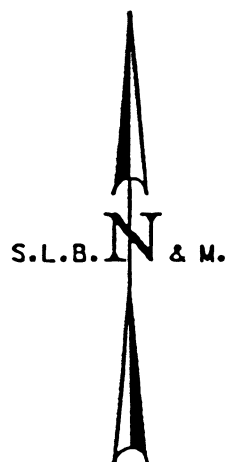
ie application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly
thorized agent if the statement in block 11 has been filled out and signed.

I U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States
owingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or
udulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or
udulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

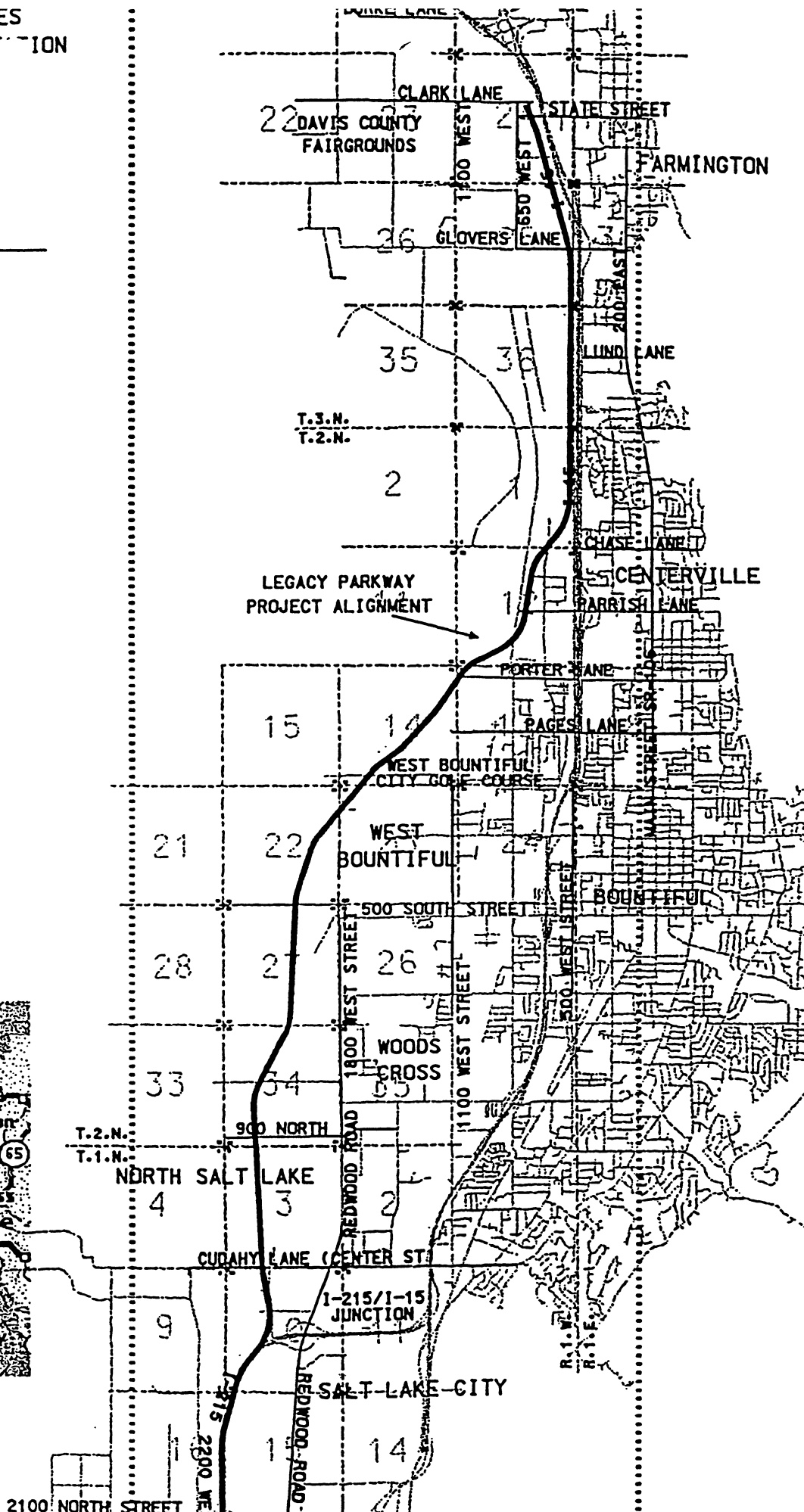
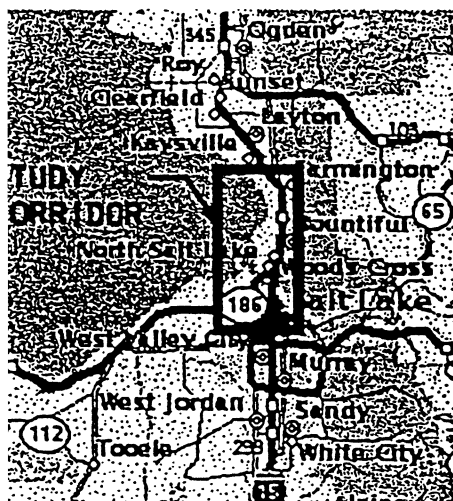
AVIS & SALT LAKE COUNTIES
DEPARTMENT OF TRANSPORTATION
SHEET 1 OF 9
APRIL 21, 2000

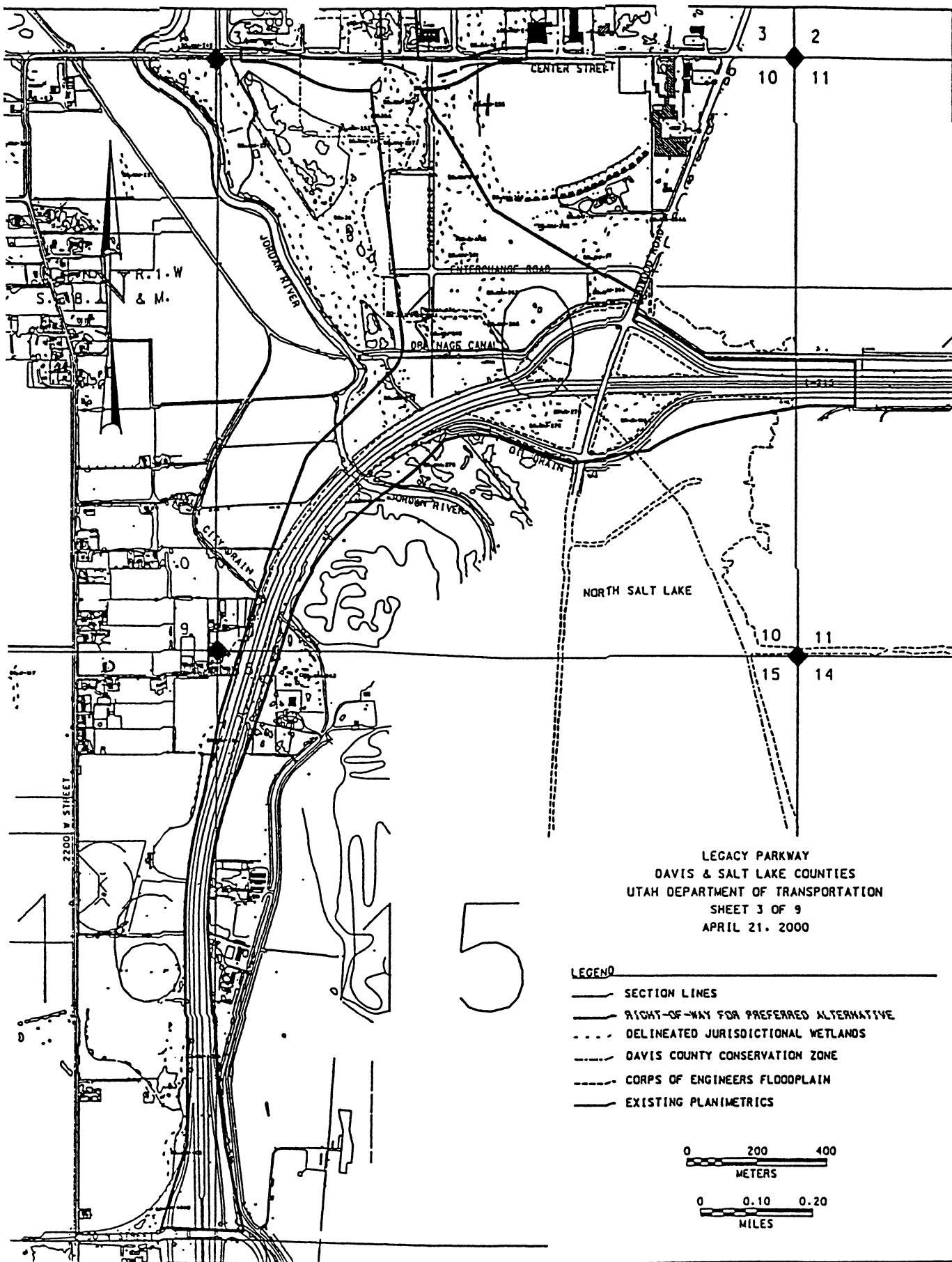
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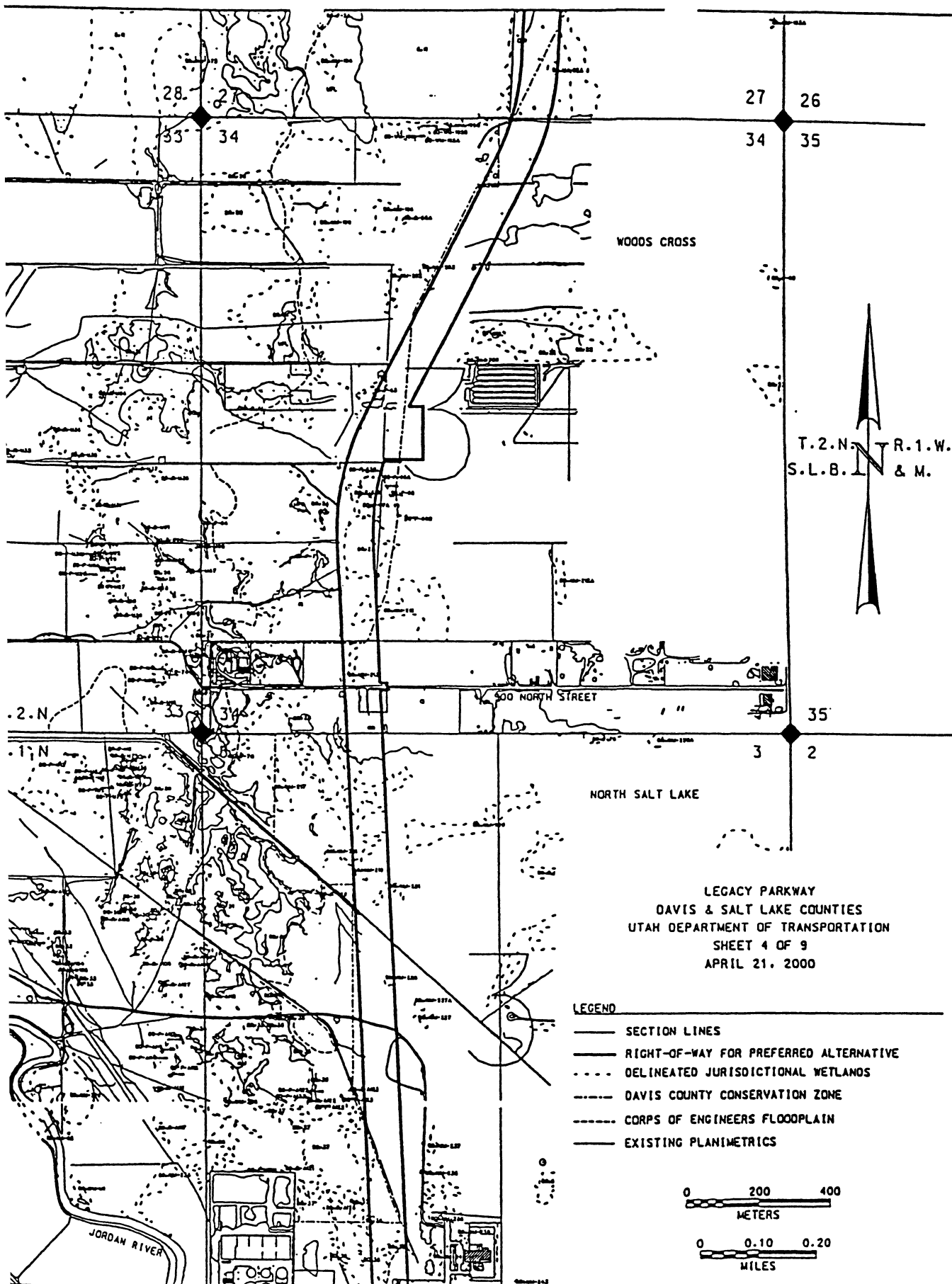
- SECTION LINES
- PREFERRED ALTERNATIVE
- ... LOCATION OF ACTIVITY



LOCATION MAP







T.2.N
S.L.B.1 & M.



21
28

R.1.W.

WEST BOUNTIFUL

WOODS CROSS

15
22

22
27

1200 N STREET

500 SOUTH STREET

LEGACY PARKWAY
DAVIS & SALT LAKE COUNTIES
UTAH DEPARTMENT OF TRANSPORTATION
SHEET 5 OF 9
APRIL 21, 2000

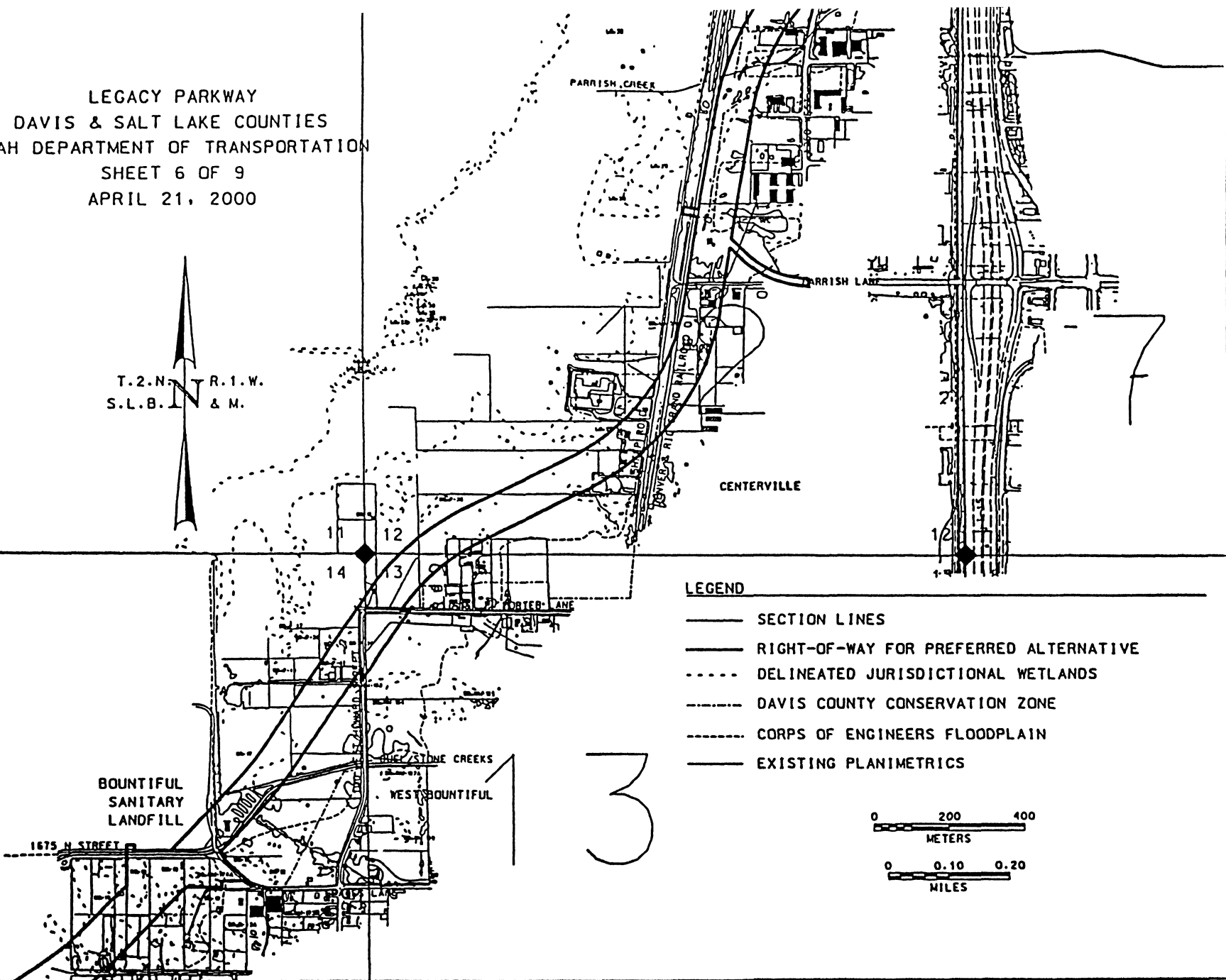
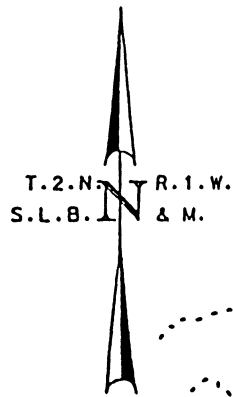
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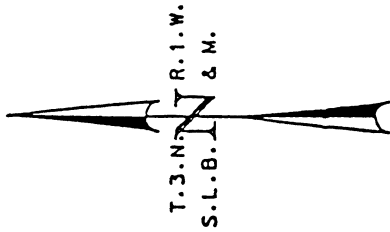
- SECTION LINES
- RIGHT-OF-WAY PREFERRED ALTERNATIVE
- ... DELINEATED JURISDICTIONAL WETLANDS
- DAVIS COUNTY CONSERVATION ZONE
- CORPS OF ENGINEERS FLOODPLAIN
- EXISTING PLANIMETRICS

0 200 400
METERS

0 0.10 0.20
MILES

LEGACY PARKWAY
DAVIS & SALT LAKE COUNTIES
UTAH DEPARTMENT OF TRANSPORTATION
SHEET 6 OF 9
APRIL 21, 2000





T.3.N.

T.2.N.

35 36

2 1

FARMINGTON
BAY

LEGACY PARKWAY
DAVIS & SALT LAKE COUNTIES
UTAH DEPARTMENT OF TRANSPORTATION
SHEET 7 OF 9
APRIL 21, 2000

LEGEND

- SECTION LINES
- RIGHT-OF-WAY PREFERRED ALTERNATIVE
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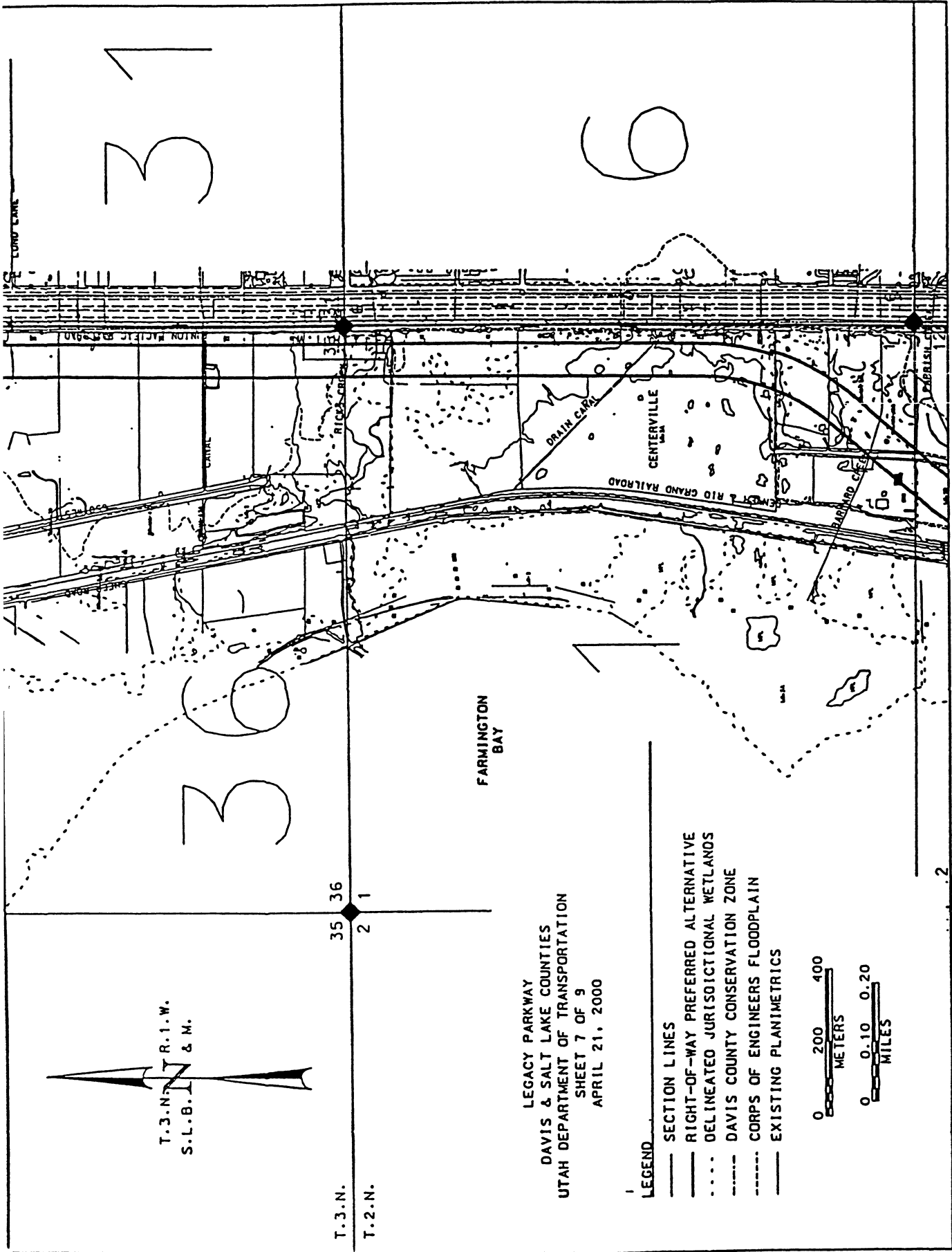
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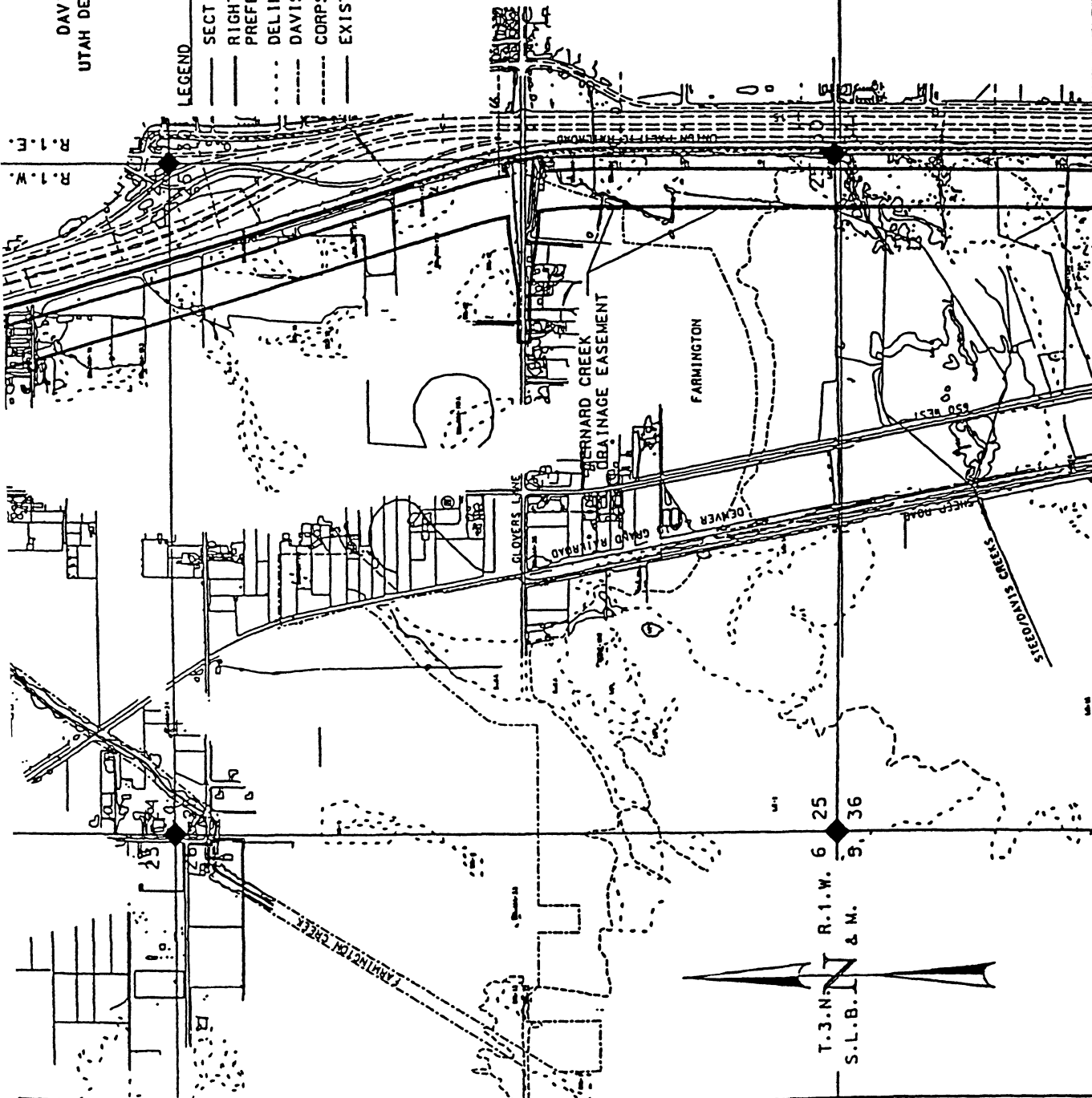
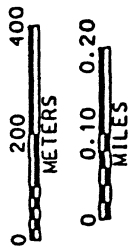
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LEGACY PARKWAY
DAVIS & SALT LAKE COUNTIES
UTAH DEPARTMENT OF TRANSPORTATION
SHEET 8 OF 9
APRIL 21, 2000

LEGEND

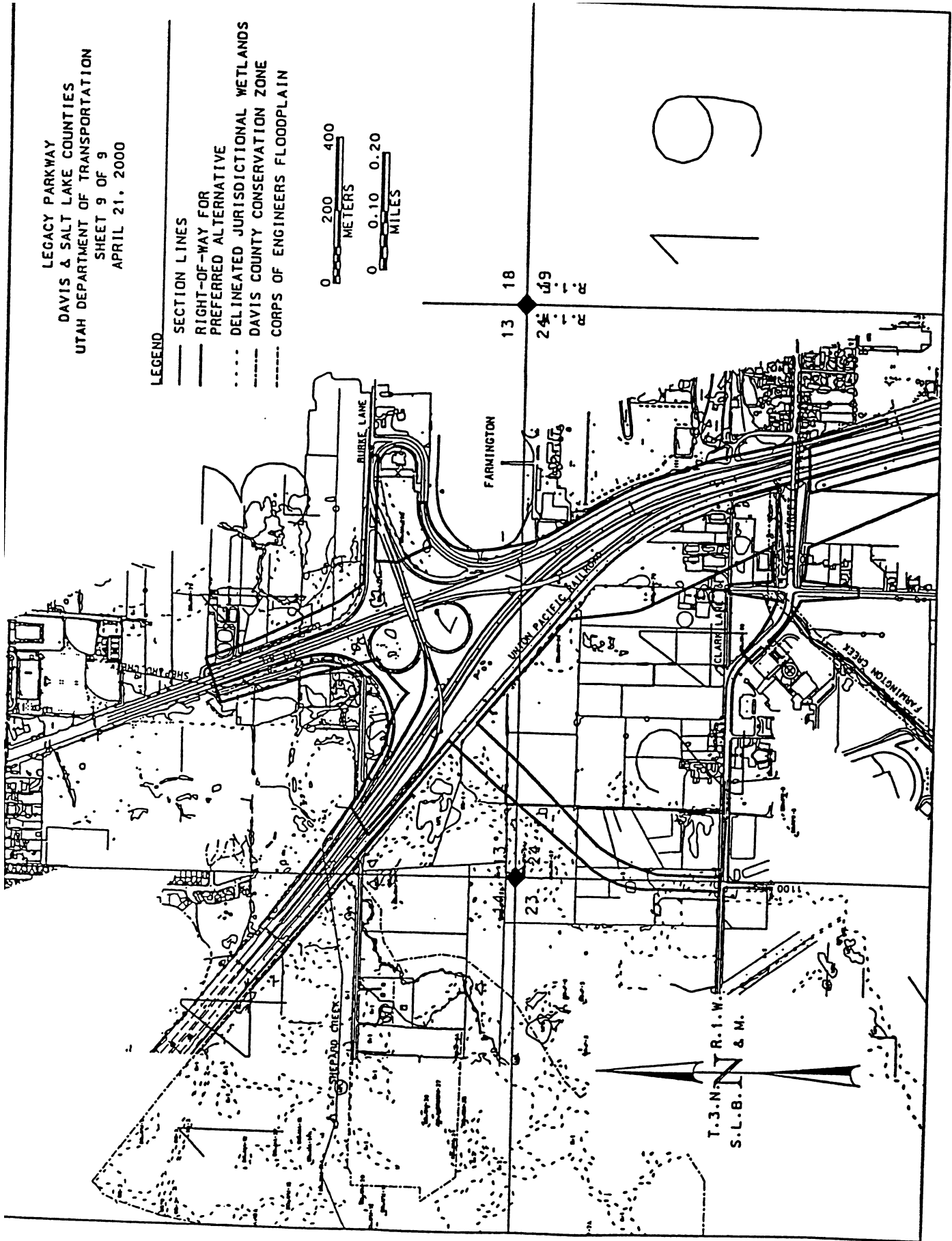
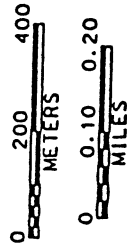
- SECTION LINES
- RIGHT-OF-WAY FOR
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- DELINEATED JURISDICTIONAL WETLANDS
- DAVIS COUNTY CONSERVATION ZONE
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LEGACY PARKWAY
DAVIS & SALT LAKE COUNTIES
UTAH DEPARTMENT OF TRANSPORTATION
SHEET 9 OF 9
APRIL 21, 2000

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- SECTION LINES
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- DAVIS COUNTY CONSERVATION ZONE
- CORPS OF ENGINEERS FLOODPLAIN



T.3.N. R.1.W.
S.L.B. & M.

19

REQUIRED PERMITS AND CLEARANCES
Legacy Parkway Section 404 Permit Application

<i>Permit</i>	<i>Granting Agency(ies)</i>	<i>Applicant</i>	<i>Application Time</i>	<i>Granting Time</i>	<i>Application Portion of Project</i>
Floodplain Development Permit (local floodplain coordinator)	Davis County, North Salt Lake, Woods Cross, West Bountiful, Centerville, Farmington	UDOT (Prepared by Contractor)	Design/Build Phase	Design/Build Phase	Portions of roadway or structures in FEMA floodplain for creeks or Great Salt Lake
Development Permit for Critical Flood Areas	Davis County	UDOT (Prepared by Contractor)	Design/Build Phase	Design/Build Phase	Portions of roadway or structures within 30 meters (100 feet) of certain channels
Section 404 Permit (Clean Water Act) and Stream Alteration Permit	COE, Utah Division of Water Rights (reviews stream alterations)	UDOT	Concurrent with FEIS	Concurrent with Record of Decision (ROD)	Portions of roadway in wetlands, structures at stream crossings
Section 404 Permit (Clean Water Act) (modifications)	COE	UDOT (prepared by contractor)	Design/Build Phase	Prior to Construction	Required if design/build contractor proposes changes to Section 404 permit
Section 401 of the Clean Water Act Certification	UDEQ Division of Water Quality	UDOT	Concurrent with FEIS	Concurrent with ROD	Required for Section 404 Permit Issuance
Stream Alteration Permit (potentially)	UDNR Division of Water Rights	UDOT (prepared by contractor)	Design/Build Phase	Prior to Construction	Required if design/build contractor proposes changes to stream crossing designs in Section 404 Permit
Section 402 Permit (UPDES)	UDEQ Division of Water Quality	Contractor	Design/Build Phase	Prior to Construction	Storm water quality during construction phrase
Approval of Addition or Modification of Access Points	FHWA	UDOT	EIS Phase	Concurrent with ROD	Interstate access changes
Air Quality Approval Order	UDEQ Division of Air Quality	Contractor	Design/Build Phase	Prior to Construction	Air quality during construction phase (emissions from equipment)
Water Rights (change deed record or apply for change in point of diversion)	UDNR Division of Water Rights	UDOT	ROW Acquisition Phase	ROW Acquisition Phase	Changes in point of diversion or change of use associated with wells in the ROW or water required for wetland mitigation
Certificate of Registration	UDNR Division of Wildlife Resources	Contractor	Design/Build Phase	Prior to Construction	Impacts on raptor nests
Permit to Take...	USFWS	UDOT	EIS Phase	FEIS	Impacts on raptors and threatened and endangered species.
Section 106 of the National Historic Preservation Act	SHPO and ACHP	UDOT	Concurrent with DEIS	FEIS	Mitigation of historic and archaeological resources
Memorandum of Agreement	SHPO and ACHP	UDOT	EIS Phase	FEIS _	Impacts on NRHP Properties

REQUIRED PERMITS AND CLEARANCES (Continued)

UDEQ/EPA Approval of Remediation Work Plan	UDEQ or EPA	UDOT	EIS and Design/Build Phases	Prior to Construction	Hazardous waste, CERCLA, and NPL sites
Construction-related permits for all of the above (potentially)	Various	Contractor	Contractor	Prior to Construction	Impacts associated with off-site activities such as construction staging, borrow areas, batch plant sites, etc.
Blanket Certificate (prior notice)	FERC	Gas Company	Design/Build Phase	Prior to Construction	Major gas line relocations
Endangered Species Act Survey (potentially)	USFWS	UDOT	Design/Build Phase	Prior to Construction	Endangered or threatened species field survey and mitigation
Material Site Right-of-Way Permit	BLM	UDOT (prepared by Contractor)	Prior to Use	Prior to Use	Required if fill is to be taken from areas with BLM mineral reservations

ACHP = Advisory Council on Historic Preservation.
BLM = Bureau of Land Management
CERCLA = Comprehensive Environmental Response, Compensation and Liability Act.
COE = U.S. Army Corps of Engineers.
DEIS = Draft Environmental Impact Statement.
EIS = Environmental Impact Statement.
EPA = U.S. Environmental Protection Agency.
FEIS = Final Environmental Statement
FEMA = Federal Emergency Management Agency.
FERC = Federal Energy Regulatory Commission.
FHWA = Federal Highway Administration.

NRHP = National Register of Historic Places.
NPL = National Priorities List.
ROD = Record of Decision.
ROW = right-of-way.
SHPO = State Historic Preservation Officer.
UDEQ = Utah Department of Environmental Quality.
UDOT = Utah Department of Transportation.
UDWR = Utah Department of Wildlife Resources.
UDNR = Utah Department of Natural Resources.
UPDES = Utah Pollution Discharge Elimination System.
USFWS = U.S. Fish and Wildlife Service.

All of the listed permits would be required for construction of the Legacy Parkway under all build alternatives and options.

Additional Information

Background

A complete historic and archeological survey of the study area was completed for the Draft Environmental Impact Statement (DEIS). The project would adversely impact two archeological sites and one historic property. One of the historic properties reported on in the DEIS was destroyed by the property owner and no longer exists. Mitigation of the remaining resources has been coordinated with the State Historic Preservation Office and the Advisory Council on Historic Properties. The agreed to mitigation is identified in a signed Section 106 Memorandum of Agreement which is included in the Final EIS as Appendix O.

Since the completion of the DEIS, the peregrine falcon (Falco peregrinus) has been delisted as a threatened or endangered species. Formal Consultation under Section 7 of the Endangered Species Act has been completed. The U.S. Fish and Wildlife Service's (FWS) Biological Opinion is included in the Final Environmental Impact Statement (FEIS) as Appendix D. The Opinion concluded that the Parkway would not jeopardize the continued existence of any listed species. The Opinion recommended certain actions to mitigate potential adverse effects to the bald eagle (Haliaeetus leucocephalus). UDOT suggested slight modifications to these and coordinated them with the FWS. The mitigation summary table in Chapter 4 of the FEIS identifies the mitigation measures UDOT will implement for the protection of the bald eagle.

The Parkway will be constructed using the design-build process. This project delivery method gives the contractor the greatest amount of flexibility and gives the state the best cost. Typically, the contractor will finalize his design as the project is constructed. This creates some problems from a 404 perspective because it doesn't allow for a single point-in-time review of the final design to make sure that the design minimizes wetland impacts.

The design that exists in the FEIS allows approximately 23 acres of wetlands to remain in the ROW after construction is complete. An examination of what would happen to wetland impacts if the alignment is moved as far as possible to the opposite side of the ROW demonstrated that the remaining wetlands would remain essentially the same. There was only 0.2 of an acre difference. From this it can be seen that no matter where the alignment is located, there could be no more than about 23 acres of wetlands remaining after construction.

UDOT has also had the HGM consultant provide an estimate of what the functional rating would be for the wetlands remaining in the ROW. His estimate was that the wetlands would have an average functional capacity index of 0.1 or a total of about 23 functional capacity units. This estimate did not include any FCU reduction because of construction impacts so it may be on the high side. From this it can be concluded that the functional units lost within the ROW would be between 301 (for a total loss) and 278 (for maximizing the amount of wetlands left within the ROW). From a regulatory standpoint, this does not seem like a significant difference.

Given the minor difference in final functional unit impacts, UDOT proposes that the permit decision be based on an assumption of total loss. At the same time, the contractor will be provided an

environmental incentive for leaving wetlands. The incentive will range from zero for leaving no wetlands to a maximum incentive for leaving all 23 acres. UDOT will also provide an environmental incentive for methods that minimize construction impacts. Because the functional unit impacts will remain essentially the same, no matter how many wetlands remain in the ROW, UDOT would expect that the mitigation would also be based on a assumption of total wetland loss within the ROW.

Preferred Alternative

Impacts.

The adverse effects of the Preferred Alternative include:

- impact 4 hectares (9.8 acres) of recreation area,
- impact two archeological sites and one historic property,
- segment four cities (segment areas where future development is expected to occur from the rest of the city),
- impact 26 hectares (64 acres) of federally designated prime farmland,
- displace 4 residences and 14 businesses,
- create 2,000 jobs during construction,
- reduce carbon monoxide, hydrocarbons, and nitrogen oxides by 22.1%, 14.8%, and 1.3% respectively,
- exceed state noise standards at 37 of 63 modeled sensitive noise receptors,
- displacement of 110 groundwater rights,
- fill 46 hectares (114 acres) of wetlands,
- direct loss of 301 wetland functional units,
- indirect loss of 365 wetland functional units,
- segment 43 hectares (106 acres) of wetlands to the east of the alignment,
- be within 0.6 km (0.4 miles) of the peregrine falcon eyrie,
- culvert 0.95 km (0.6 miles) of total stream length,
- 2 km (1 mile) of the alignment ROW being within the FEMA floodplain,
- 17 hectares (43 acres) of the FEMA floodplain being within the alignment ROW,
- 22 hectares (56 acres) of the FEMA floodplain being east of the alignment,
- 7 km (5 miles) of the alignment ROW being within the COE floodplain,
- 86 hectares (213 acres) of the COE floodplain being within the alignment ROW,
- 72 hectares (179 acres) of the COE floodplain being east of the alignment,
- be within 1.5 km (0.9 miles) of the bald eagle nest,
- be within 0.4 km (0.2 miles) of bald eagle roost sites 3 and 4,
- impact 13 hazardous waste sites, and
- cost \$369 million to construct.

Mitigation Measures.

a. Maintain access to the southern entrance of the Farmington Bay Waterfowl Management Area (FBWMA) and to the Bountiful City Pond via frontage road and the nonmotorized overpass at Pages Lane.

b. Plant vegetation for water quality along the edge of the road to filter pollutants that are in runoff from the road. Install drainage structures to prevent storm water from concentrating and

discharging directly into wetlands. Install erosion and scour protection downstream of culverts if velocities are great enough to warrant it. In addition, the project will require a Section 402 UPDES permit. The water quality protection conditions of that permit will be implemented.

c. Acquire the Legacy Nature Preserve as wetland mitigation which would provide a buffer to protect the wetlands adjacent to Great Salt Lake from the impacts of future development. The Nature Preserve will be 506 hectares (1,251 acres) and will be managed in the manner identified in Appendix B3 - Wetland Mitigation Plan. The Preserve will result in the protection and restoration of 134 hectares (332 acres) of wetlands which would preserve and restore 695 wetland functional units,

d. Acquire 128 hectares (317 acres) for specific wildlife mitigation of certain wetland wildlife functions.

e. The Nature Preserve will be managed specifically for wildlife and will focus on the major species impacted by the project.

f. Install equalization drainage to allow the floodplain to function on both sides of the road.

g. Plant native species in the highway right-of-way to help replace the vegetation that is impacted. The upland areas of the Nature Preserve will also be preserved and managed in a manner to mitigate for vegetation impacted by the project.

h. Provide natural stream substrate along perennial streams and other large drainages where culverts larger than 1.2 meters (48 inches) are required.

i. Data from cultural resource sites will be recovered in accordance with the procedures outlined in FEIS Appendix O - Section 106 MOA.

j. Peregrine falcon nesting activity will be monitored during construction and construction shall cease if any sign of disturbance is observed. The FWS will be consulted before construction resumes.

k. Provide noise mitigation east of the alignment between 1200 N and 2200 N (Pages Lane) in West Bountiful.

l. Bald eagle nesting and winter roosting will be monitored during construction and construction shall cease if any sign of disturbance is observed. The FWS will be consulted before construction resumes. No construction activities will occur within ½ mile of an active bald eagle winter roost site.

m. Protection measures against hazardous wastes will be included in the construction contractors environmental protection plan which will be reviewed and approved by UDEQ prior to initiation of construction. The Northwest Oil Drain site will be mitigated by avoidance.

n. Visual resources will be mitigated by landscape plantings and the earthen berm.

o. Construction impacts will be mitigated with best management practices.

Alternatives

No Action Alternative. The FEIS evaluated two No Action (No-build) Alternatives for the Legacy Parkway FEIS. One alternative included only those projects that have already been approved as a part of the State Transportation Improvement Plan (STIP). The other No Action alternative included the same STIP projects plus the reconstruction of I-15.

Both No Action alternatives also included intelligent transportation systems, transportation systems management, travel demand management, and the maximum reasonable development of additional

transit. The evaluation concluded that the more likely No Action alternative, should the Parkway not be approved, would be the plan that would not include the reconstruction of I-15. See Chapter 2 of the FEIS for the results of this analysis.

The evaluation demonstrated that either No Action alternative would fall substantially short of meeting the forecasted 2020 travel demand for the North Corridor. The first part of Chapter 2 presents information on this evaluation. This alternative was not selected because it would not meet the primary project purpose.

All of the components of the No Action alternative, including the reconstruction of I-15 are needed; however, along with the Legacy Parkway, to help solve the 2020 travel demand for the North Corridor and are, therefore, a part of UDOT's shared solution.

Other Alignments. The FEIS also evaluates four build alternatives. These are Alternatives A, B, C, and the PA (Preferred Alternative). With this application, UDOT is applying for the PA. This permit application also contains information on Alternative A and Alternative C (formerly the Locally Preferred Alternative in the DEIS and the alignment applied for by UDOT at the time of the DEIS). Information on Alternative B is not included in the permit application because Alternatives A, C, and the PA are the ones on which the 404 decision is focusing.

Alternative A. Alternative A is quite similar to the PA. It is also a four lane freeway with controlled access, grade separated crossings, and a 20 meter (66 feet) wide median. It is approximately 22.5 km (14 miles) long and runs from I-215 and 2100 N in Salt Lake City to the junction of I - 215 and U.S. 89 in Farmington. The main difference between the two is north of 500 S. Alternative A turns northeast just north of the interchange and parallels the PA further east.

It requires the widening of I - 215 from two lanes in each direction from 2100 N to a point 450 meters (0.3 miles) west of the Redwood Road interchange. There are interchanges at I - 215 in Salt Lake City, 500 S in Woods Cross, Parrish Lane in Centerville, and I - 15/U.S.89 in Farmington.

There are overpasses at Center Street and 900 N in North Salt Lake and at Glovers Lane, State Street (Clarke Lane), and Burke Lane in Farmington. There are underpasses at the Sheep Road, the D&RGRR, and 1250 W in Centerville. There will also be a pedestrian and equestrian overpass at Pages Lane to maintain access to Bountiful Pond and the southern entrance of the FBWMA.

There will be two frontage roads. One on the west side of the Parkway from 900 N in North Salt Lake to the Bountiful Sanitary Landfill. The other on the east side from Porter Lane to the Sheep Road just south of the Utah Power and Light substation. There will be a connecting road between 1250 W and the Sheep Road about 1.2 km (0.8 miles) north of Parrish Lane.

There will also be a combined pedestrian, bicyclist, and equestrian trail along the east side of the Parkway from the vicinity of the Jordan River Parkway to the Sheep Road in Centerville, then on the Sheep Road to 1000 N in Centerville, and then along the western side of the Parkway to State Street in Farmington.

There will be culverted crossings of Shepard, Farmington, Steed, Ricks, Barnard, Parrish, Duel/Stone, and Mill creeks. There will also be a bridge constructed over the Jordan River. Riprap bank protection will be placed at all crossings as needed.

Mitigation measures for Alternative A would generally be similar to those for the PA. A Legacy Nature Preserve would be acquired as a part of this alternative. It would be approximately 440 hectares (1,088 acres), including 144 hectares (356 acres) of wetlands. It would be managed in a manner similar to the PA and would result in the preservation and restoration of 612 wetland functional units.

The effects of Alternative A include:

- impact 1.6 hectares (3.9 acres) of recreation area,
- impact two archeological sites and one historic property,
- segment four cities (segment areas where future development is expected to occur from the rest of the city),
- impact 34 hectares (84 acres) of federally designated prime farmland,
- displace 7 residences and 16 businesses,
- create 2,000 jobs during construction,
- reduce carbon monoxide, hydrocarbons, and nitrogen oxides by 22.1%, 14.8%, and 1.3% respectively,
- exceed state noise standards at 41 of 63 modeled sensitive noise receptors,
- displacement of 123 groundwater rights,
- fill 44 hectares (108 acres) of wetlands,
- direct loss of 290 wetland functional units,
- indirect loss of 315 wetland functional units,
- segment 26 hectares (63 acres) of wetlands to the east of the alignment,
- be within 0.6 km (0.4 miles) of the peregrine falcon eyrie,
- culvert 0.9 km (0.6 miles) of total stream length,
- 1 km (0.6 miles) of the alignment ROW being within the FEMA floodplain,
- 12 hectares (29 acres) of the FEMA floodplain being within the alignment ROW,
- 23 hectares (58 acres) of the FEMA floodplain being east of the alignment,
- 5 km (3 miles) of the alignment ROW being within the COE floodplain,
- 55 hectares (136 acres) of the COE floodplain being within the alignment ROW,
- 23 hectares (57 acres) of the COE floodplain being east of the alignment,
- be within 1.5 km (0.9 miles) of the bald eagle nest,
- be within 0.5 km (0.3 miles) and 0.1 km (0.1 mile) of bald eagle roost sites 3 and 4 respectively,
- impact 13 hazardous waste sites, and
- cost \$372 million to construct.

Alternative C. Alternative C is generally west of and parallel to the PA. In the DEIS, it was the LPA and was the project on which the original Section 404 application was submitted. It is also a four lane freeway with controlled access, grade separated crossings, and a 20 meter (66 feet) wide median. It is approximately 22.5 km (14 miles) long and runs from I-215 and 2100 North in Salt Lake City to the junction of I - 215 and U.S. 89 in Farmington.

It requires the widening of I - 215 from two lanes in each direction from 2100 N to a point 450 meters (0.3 miles) west of the Redwood Road interchange. There are interchanges at I - 215 in Salt Lake City, 500 S in Woods Cross, Parrish Lane in Centerville, and I - 15/U.S.89 in Farmington.

There are overpasses at Cen. Street in North Salt Lake and at Glovers Lane, State Street (Clarke Lane), and Burke Lane in Farmington. There are underpasses at the Sheep Road and the D&RGRR in Centerville and 650 W in Farmington. There will also be a pedestrian and equestrian overpass at Pages Lane to maintain access to Bountiful Pond and the southern entrance of the FBWMA.

There would be three frontage roads. One is on the west side of the Parkway from the 500 S interchange in Woods Cross to the Bountiful Sanitary Landfill. The second is on the east side from 1100 W in West Bountiful to Porter Lane. The third is a realignment of the Sheep Road south of Glovers Lane to the east entrance of the Farmington Bay Waterfowl Management Area.

There will also be a combined pedestrian, bicyclist, and equestrian trail along the east side of the Parkway from the vicinity of the Jordan River Parkway to the Sheep Road in Centerville, then along the western side of the Parkway to State Street in Farmington.

There will be culverted crossings of Shepard, Farmington, Steed, Ricks, Barnard, Parrish, Duel/Stone, and Mill creeks. There will also be a bridge constructed over the Jordan River. Riprap bank protection will be placed at all crossings as needed.

Mitigation measures for Alternative C would generally be similar to those for the PA. A Legacy Nature Preserve would be acquired as a part of this alternative. It would be approximately 621 hectares (1,535 acres) and would be and managed in a manner similar to the PA. 217 hectares (535 acres) of wetlands would be preserved and restored. This would result in the preservation and restoration of 311 wetland functional units.

The effects of Alternative C include:

- impact 5.3 hectares (13.1 acres) of recreation area,
- impact two archeological sites and one historic property,
- segment two cities (segment areas where future development is expected to occur from the rest of the city),
- impact 36 hectares (90 acres) of federally designated prime farmland,
- displace 5 residences and 9 businesses,
- create 2,000 jobs during construction,
- reduce carbon monoxide, hydrocarbons, and nitrogen oxides by 22.1%, 14.8%, and 1.3% respectively,
- exceed state noise standards at 38 of 63 modeled sensitive noise receptors,
- displacement of 108 groundwater rights,
- fill 60 hectares (147 acres) of wetlands,
- direct loss of 476 wetland functional units,
- indirect loss of 757 wetland functional units,
- segment 114 hectares (280 acres) of wetlands to the east of the alignment,
- be within 0.07 km (0.04 miles) and 0.6 km (0.4 miles) of the two peregrine falcon eyries,
- culvert 0.9 km (0.6 miles) of total stream length,
- 2 km (1.2 miles) of the alignment ROW being within the FEMA floodplain,
- 16 hectares (40 acres) of the FEMA floodplain being within the alignment ROW,
- 90 hectares (223 acres) of the FEMA floodplain being east of the alignment,
- 11 km (7 miles) of the alignment ROW being within the COE floodplain,

- 135 hectares (333 acres) of the COE floodplain being within the alignment ROW,
- 244 hectares (602 acres) of the COE floodplain being east of the alignment,
- be within 1.5 km (0.9 miles) of the bald eagle nest,
- be within 0.2 km (0.1 miles) and 0.4 km (0.2 mile) of bald eagle roost sites 3 and 4 respectively,
- impact 12 hazardous waste sites, and
- cost \$378 million to construct.

**LEGACY PARKWAY
DAVIS & SALT LAKE COUNTIES
UTAH DEPARTMENT OF TRANSPORTATION
APRIL 21, 2000**

PREFERRED ALTERNATIVE DIRECT WETLAND IMPACTS

Frequency	Study Area	Wetland Code	Wetland Basin	Func Rating	Jurisdiction	Acres
1	YES	D-MA-17B	S-3	L	Farmington	1.27021
1	YES	D-MA-25A	BD-MA-25A	M-L	Farmington	0.733428
2	YES	D-MA-25B	BD-MA-25B	M-L	Farmington	0.359624
1	YES	D-MA-37	LS-1A	M	Davis-County	0.390991
2	YES	D-MA-37A	LS-1A	M	Davis-County	2.087782
2	YES	D-MA-49	LS-2A	M-L	Centerville	5.23218
1	YES	D-MA-50	BD-MA-50	M	Centerville	0.9298
1	YES	D-MA-52	LS-2A	L	Centerville	11.611992
1	YES	D-MA-55	BD-19	H	Davis-County	0.419056
1	YES	D-MA-56	S-10	M	West_Bountiful	1.253897
1	YES	D-MA-62A	BD-MA-62A	M	Davis-County	0.165211
1	YES	D-MA-62B	S-11	M	Davis-County	0.122292
2	YES	D-MA-63A	BD-28	H-M	North_Salt_Lake	0.012112
1	YES	D-MA-66	BD-MA-66	M-L	North_Salt_Lake	0.002369
1	YES	D-MA-67A	BD-MA-67A	H-M	North_Salt_Lake	0.120025
1	YES	D-MA-A126	BD-MA-A126	L	North_Salt_Lake	0.044454
5	YES	D-OW-13	LS-2A	M-L	Centerville	6.254789
1	YES	D-OW-21	BD-OW-21	M	North_Salt_Lake	0.017698
1	YES	D-OW-2A	S-5	H-M	Davis-County	0.123511
1	YES	D-P-100	BD-38	M-L	North_Salt_Lake	0.061377
1	YES	D-P-102	BD-38	L	North_Salt_Lake	0.391646
1	YES	D-P-102A	BD-38	M-L	North_Salt_Lake	0.259732
2	YES	D-P-103	BD-38	M	North_Salt_Lake	0.560402
1	YES	D-P-104A	BD-39A	M-L	North_Salt_Lake	0.307851
1	YES	D-P-106A	BD-P-106A	M	North_Salt_Lake	2.641444
3	YES	D-P-26B	LS-2A	M-L	Centerville	1.175181
1	YES	D-P-278	BD-P-278	L	North_Salt_Lake	0.574007
1	YES	D-P-39	BD-P-39	L	Davis-County	0.791713
1	YES	D-P-41	BD-P-41	M-L	Davis-County	0.384404
1	YES	D-P-42	BD-17	H-M	Davis-County	1.313554
1	YES	D-P-43	BD-19	M-L	Davis-County	1.551806
1	YES	D-P-44	BD-19	M-L	Davis-County	0.822926
1	YES	D-P-44A	S-10	H	Davis-County	0.806086
1	YES	D-P-44A	S-10	H	West_Bountiful	0.317766
1	YES	D-P-63	BD-P-63	M-L	Woods_Cross	0.153009
1	YES	D-P-67	BD-25	M	North_Salt_Lake	0.009289
1	YES	D-P-67	BD-25	M	Woods_Cross	0.323212
1	YES	D-P-67A	BD-P-67A	M	Woods_Cross	0.054247
1	YES	D-P-67B	BD-P-67B	M	Woods_Cross	0.016309
1	YES	D-P-67C	BD-P-67C	M	Woods_Cross	0.131027
1	YES	D-P-72A	BD-25	M	North_Salt_Lake	0.07786
2	YES	D-P-97	BD-37	M-L	North_Salt_Lake	0.114074

Frequency	Study Area	Wetlanu Code	Wetland Basin	Func Rating	Ju.,sdiction	Acres
1	YES	D-P-A125	BD-P-A125	M-L	North_Salt_Lake	0.061081
1	YES	D-P-A25	S-10	H	West_Bountiful	0.661901
2	YES	D-P-A27	BD-P-A27	H	West_Bountiful	0.087754
1	YES	D-P-A31	LL-3	M	West_Bountiful	0.000629
1	YES	D-P-A32	LL-3	M	West_Bountiful	2.240439
1	YES	D-WM-102	BD-WM-102	H	Farmington	0.131026
1	YES	D-WM-104	S-8	H-M	Farmington	0.805517
1	YES	D-WM-116	BD-WM-116	H-M	Farmington	1.685119
1	YES	D-WM-117	BD-WM-117	H-M	Farmington	0.821626
1	YES	D-WM-121	BD-WM-121	H-M	Farmington	1.766884
1	YES	D-WM-122	BD-12	M	Farmington	0.408856
1	YES	D-WM-123	BD-WM-123	M	Farmington	0.216418
1	YES	D-WM-124	BD-WM-124	M	Davis-County	1.277729
3	YES	D-WM-132	LS-1A	M	Davis-County	0.507524
1	YES	D-WM-133	BD-WM-133	L	Davis-County	0.933463
3	YES	D-WM-138	LS-2	H-M	Centerville	1.209582
6	YES	D-WM-142	LS-2A	M	Centerville	4.741319
1	YES	D-WM-153	LS-2A	H-M	Centerville	0.928143
1	YES	D-WM-155	BD-WM-155	H-M	Centerville	0.345489
1	YES	D-WM-159	LS-2B	M	Centerville	0.587062
1	YES	D-WM-160	LS-2B	M	Centerville	0.561809
1	YES	D-WM-162	BD-WM-162	H-M	Centerville	0.235752
1	YES	D-WM-163	BD-WM-163	H-M	Davis-County	0.010714
1	YES	D-WM-166	BD-17	M	Davis-County	0.47375
1	YES	D-WM-167	BD-17	H-M	Davis-County	0.568081
1	YES	D-WM-168	BD-18	M-L	Davis-County	0.04542
1	YES	D-WM-168A	BD-19	M-L	Davis-County	0.284584
1	YES	D-WM-171B	BD-19	M	Davis-County	0.208014
1	YES	D-WM-174	BD-19	L	Davis-County	2.421252
1	YES	D-WM-174A	BD-WM-174A	M	Davis-County	0.032498
1	YES	D-WM-175	BD-19	M	Davis-County	0.65915
1	YES	D-WM-177	BD-WM-177	M	Davis-County	0.256652
1	YES	D-WM-178	S-10	H-M	Davis-County	0.876746
1	YES	D-WM-178	S-10	H-M	West_Bountiful	1.647758
2	YES	D-WM-181	S-10	M	West_Bountiful	0.357683
1	YES	D-WM-183	S-10	M-L	West_Bountiful	0.688793
1	YES	D-WM-187	BD-WM-187	M-L	Davis-County	4.630932
1	YES	D-WM-190	BD-WM-190	L	Davis-County	1.243132
1	YES	D-WM-193	S-11	M-L	Davis-County	1.280523
1	YES	D-WM-203	BD-WM-203	M	Davis-County	0.044925
1	YES	D-WM-211	BD-25	H-M	North_Salt_Lake	2.107872
1	YES	D-WM-211	BD-25	H-M	Woods_Cross	0.102924
1	YES	D-WM-212	BD-WM-212	H-M	North_Salt_Lake	0.664264
1	YES	D-WM-213	BD-WM-213	H	North_Salt_Lake	0.583004
7	YES	D-WM-214	BD-28	H-M	North_Salt_Lake	1.371755
1	YES	D-WM-219	BD-WM-219	H	North_Salt_Lake	0.777048
1	YES	D-WM-221	BD-WM-221	H-M	North_Salt_Lake	0.207881
1	YES	D-WM-226	BD-WM-226	M-L	North_Salt_Lake	0.127808
1	YES	D-WM-241	BD-38	M	North_Salt_Lake	0.279956
1	YES	D-WM-243B	BD-WM-243B	M	North_Salt_Lake	0.027595

Frequency	Study Area	Wetland Code	Wetland Basin	Func Rating	Jurisdiction	Acres
2	YES	D-WM-247	BD-38	M	North_Salt_Lake	0.878465
1	YES	D-WM-248	BD-WM-248	M	North_Salt_Lake	0.990149
1	YES	D-WM-249	BD-WM-249	M	North_Salt_Lake	0.685416
1	YES	D-WM-254	BD-39A	M	North_Salt_Lake	1.73812
1	YES	D-WM-257	BD-WM-257	M-L	North_Salt_Lake	0.20957
2	YES	D-WM-258	BD-WM-258	M	North_Salt_Lake	2.649243
2	YES	D-WM-259	BD-WM-259	L	North_Salt_Lake	0.275413
1	YES	D-WM-261	BD-WM-261	M	North_Salt_Lake	1.771571
1	YES	D-WM-263	BD-WM-263	M	North_Salt_Lake	1.106892
1	YES	D-WM-264	BD-WM-264	L	North_Salt_Lake	0.193137
1	YES	D-WM-265	BD-WM-265	M-L	North_Salt_Lake	1.08217
1	YES	D-WM-266	BD-WM-266	L	North_Salt_Lake	0.657416
1	YES	D-WM-27	BD-4	M	Davis-County	0.55509
1	YES	D-WM-275	BD-WM-275	M-L	North_Salt_Lake	1.514155
1	YES	D-WM-276	BD-WM-276	L	North_Salt_Lake	1.530417
1	YES	D-WM-279	BD-WM-279	M-L	North_Salt_Lake	0.612605
1	YES	D-WM-279	BD-WM-279	M-L	Salt Lake County	0.016134
2	YES	D-WM-282A	LS-1A	H	North_Salt_Lake	0.506934
1	YES	D-WM-284	BD-WM-284	L	Salt Lake County*	0.382533
2	YES	D-WM-408	BD-WM-408	M	Salt Lake County	0.01783
1	YES	D-WM-408A	BD-WM-408A	M	Salt Lake County	0.191693
5	YES	D-WM-56	S-5	M	Davis-County	6.458397
1	YES	D-WM-66	BD-WM-66	L	Farmington	0.338024
1	YES	D-WM-69	BD-WM-69	M	Farmington	0.002536
1	YES	D-WM-70	BD-WM-70	M	Farmington	0.234407
2	YES	D-WM-73	S-3	M	Farmington	0.266557
1	YES	D-WM-74	S-3	M	Farmington	0.6395
1	YES	D-WM-76	S-3	M	Farmington	0.629922
1	YES	D-WM-82	S-3	H-M	Farmington	0.078781
1	YES	D-WM-83	S-3	H-M	Farmington	0.742089
1	YES	D-WM-A55	BD-WM-A55	H	Davis-County	0.033998
1	YES	L-US-1	LS-2B	H-M	Centerville	0.137295
1	YES	P	BP		North_Salt_Lake	0.018046
1	YES	S-FO-1	S-9	H	Davis-County	0.000003
1	YES	S-MA-1A	S-3	M	Farmington	0.774431
1	YES	S-WM-8	S-8	H	Farmington	0.004045

114.10916

Jurisdiction actually Salt Lake City

Richard D. Jr. and Marcia G Rowden	1250 North Rose Park Jane Salt Lake City, UT 84111	4D
Corp. of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints	Office of General Counsel 330 South Third East Salt Lake City, UT 84111	4F
Allen Jay Green and Elayne Green	1845 North Redwood Salt Lake City, UT 84116	5
Sandra J. Bayles, Trustee of the Avron Iril Johnson Trust	10136 SW 49 th St. Topeka, KS 66610	5B
Wynn A. Thomas	2800 N. Rose Park Lane Salt Lake City, UT 84116	5D
Heber Williams Sartor, Jr. and Shirley A. Sartor	4146 South 1420 West Salt Lake City, UT 84123	6
Lloyd Felton and Toni Felton		7
Harrison W. Justice and Nora J. Justice	2186 West 2670 North Salt Lake City, UT 84116	7B
Centerville City, a Municipal Corporation	521 North 400 West Centerville, UT 84014	162
Max B. Elliott and Ross Elliott	917 South 250 East Farmington, UT 84025	182
Provo-Jordan River Parkway Authority	1545 West 1000 North Salt Lake City, UT 84116	8
Terry R. Seiter	6075 South Highland Drive Salt Lake City, UT 84121	9
Glen E. Fuller and Ashby S. Decker, Trustees	245 North Vine Salt Lake City, UT 84104 4170 South Neptune Drive Holladay, UT 84117	23
Utah paper Box company	340 West 200 South Salt Lake City, UT 84101	25
James P. Hunter	840 South 800 East Bountiful, UT 84010	64
Paul C. Hunter and Rosemarie M. Hunter	1095 North Redwood Road North Salt Lake, UT 84054	64B
Valentine – Merrell Partnership, Ltd.	2514 Elizabeth Street #7 Salt Lake City, UT 84106	80
Security Investment Company	84 South Main Street Bountiful, UT 84010	90
Lewis V. North and Vaughn A. Fowler	826 South Woodmoor Circle Bountiful, UT 84010	93
West Bountiful City, a Municipal Corporation	550 North 800 West West Bountiful, UT 84087	95
Millcreek Property Enterprises , L.L.C.	645 East 500 South Bountiful, UT 84010	96
Davis County	Davis County Courthouse Farmington, UT 84025	104
Charles T. Duggar	531 North 1100 West Bountiful, UT 84087	123
Charles T. Duggar	531 North 1100 West	125

	Bountiful, UT 84010	
Davis County		128B
Thomas J. and Jeannette Williams	454 South Main Street Centerville, UT 84014	130
Thomas G. Lund, III and Nita M. Lund	942 West Porter Lane West Bountiful, UT 84087	137
Bountiful City, a municipal corporation	790 South 100 East Bountiful, UT 84010	146
Bountiful City, a municipal corporation	790 South 100 East Bountiful, UT 84010	146
Aspen Springs Storage, LLC	167 North 1250 West Centerville, UT 84014	149
Utah Power and Light Co., a corporation	40 East 100 South Salt Lake City, UT 84111	150
E. Arthur Higgins	620 East 6870 South Midvale, UT 84047	151
Lloyd O. Hendricks and Jeannine Hendricks	1155 Oakley Street Salt Lake City, UT 84116	152
Jeannine Hendricks	1155 Oakley Street Salt Lake City, UT 84116	152B
Jean Mendenhall	1395 West 400 North Centerville, UT 84014	155
Centerville City	Centerville City 250 North Main Centerville, UT 84014	157
Union Pacific Railroad – Former Denver and Rio Grande Western Railroad	280 South 400 West Suite 250 Salt Lake City, UT 84101	158
LMCC, Inc.	462 West 1150 South Bountiful, UT 84010	167
Foss Lewis Associates, LC	203 East North Canyon Road Bountiful, UT 84010	169
Calvin E. Smoot and Jone H. Smoot	268 Eagle Way North Salt Lake, UT 84054	174
Reed L. Smith and Ursula L. Smith	2878 Davis Blvd. Bountiful, UT 84010	176
Dale D. Clark and Ruth E. Clark, Trustees	913 Sunset Drive Bountiful, UT 84010	179
		179B
Nancy J. Gibbons	36 West Rice Lane Farmington, UT 84025	184
Michael V. Tolman and Robyn T. Tolman	347 West Glover Lane Farmington, UT 84025	185
Vina Veneta Sweat and Tamra Sweat Barney	369 West Glovers Lane Farmington, UT 84025	186
Clark D. Nielsen	423 East 500 South Farmington, UT 84025	187
Lee Ann H. Evans	932 Rhyolite Terrace Henderson, NV 89015	190
Board of Education of Davis County Schools	45 East State St. Farmington UT 84025	191

Roberta Donahue and Diane Lehwalder	2265 South 800 West Woods Cross, UT 84067	195B
Stanley M. Smoot and Mary Ellen Smoot	1735 North Main Street Centerville, UT 84014	196
Davis County	PO Box 618 Farmington, UT 84025	196B
Nielson Rental Properties Limited Partnership, a Utah Limited Partnership	656 North 700 East Centerville, UT 84014	197
Chris T. Swedin	464 West 250 South Farmington, UT 84025	198
Alan B. Bangerter	1290 North 400 East Bountiful, UT 84010	198B
Chas. W. Bangerter and Son, Inc.	1304 North 400 East Bountiful, UT 84010	199
Alan B. Bangerter and Diane F. Bangerter	1290 North 400 East Bountiful, UT 84010	200
Don Whitaker and Donna R. Whitaker	PO Box 857 Farmington, UT 84025	201
John J. Stathis	PO Box 44 1130 North Main Street Farmington, UT 84025	202
Farmington City	130 North Main (PO Box F) Farmington, UT 84025	203
Farmington Area Pressurized Irrigation District	PO Box 268 Farmington, UT 84025	204
Carolee S. Bowers, Trustee of "Swaner Family Trust" 4/14/75	854 North 1150 East Richfield, ID 83349	205
Davis County	PO Box 618 Farmington, UT 84025	207
Lloyd B. Carr,	547 East 200 North Bountiful, UT 84010	209
Kelly B. Maxfield and Annette C. Hilton	121 South 650 West Farmington, UT 84025	210
Davis County Schools	45 East State Street Farmington, UT 84025	212
Union Pacific Railroad		212B
G. Chris Nielson, DBA Nielson Cams	321 East 700 South Farmington, UT 84025	213
Ivan Orville Jensen, JR	3401 South 2300 North Salt Lake City, UT 84109	214
James C. Parsell and Dennis J. Parsell	426 South 274 East Farmington, UT 84025	215
John Stathis	PO Box 44 Farmington, UT 84025	216
Gene L. Beck and Lisa H. Beck	669 South Angel Street Kaysville, UT 84037	217
Jay C. Petersen and Cherie L. Petersen	562 West 100 North Farmington, UT 84025	218
Kathleen M. Thomas and Richard G. Thomas	2781 Danville Drive Sandy, UT 84092	219
Richard C. Jones and Donna Jones	222 S. 1000 W.	220

	Farmington, UT 84025	
E. Hartley White, and Margaret R. White	48 Apricot Ave. Salt Lake City, UT 84103	222
Stanford S. Van Fleet	4776 Fortuna Way Holladay, UT 84117	223
		223B
Stanford S. Van Fleet	PO Box 321 307 North 100 East Farmington, UT 84025	224
		224B
Rodney Lynn Hess and Jon Ivan Hess, successor Co-Trustees	1007 North Main Street Farmington, UT 84025	254
Orson Henry Guymon, Jr.	16 East 1400 South Bountiful, UT 84010	255
Central Davis County Sewer District	2627 West Shephard Lane Kaysville, UT 84037	256
Rick Mayfield Davis County Planning Comm.	PO Box 618 Farmington, UT 84025-0618	
Paul Allred, Zoning Admin. City of Centerville	655 North 1250 West Centerville, UT 84014-3450	
Nicole Green	1273 North 1100 West Farmington, UT 84025-2706	
Nate Tuttle Morton Salt	PO Box 506 Grantsville, UT 84029-0506	
Ken Martin, Bldg. Inspector City of North Ogden	505 East 2600 North North Ogden, UT 84414-2899	
J.E. McAmis Inc.	3125 Southgate Lane Chico, CA 95928-7429	
EFA West – COD 185 Naval FAC Eng Comm	900 Commodore Drive San Bruno, CA 94066-5000	
Dredge & Marine Corporation	PO Box 358 Mt. Juliet, TN 37121-0358	
Dock Hardware & Marine Fabrication	60 Napco Drive Terryville, CT 06786-7307	
Craig Doolaege Water Structures	PO Box 206 Carlotta, CA 95528-0206	
Eric Noegel Marketing	1205 Business Park Drive Dixon, CA 95620-4303	
Advisory Council on Historic Preservation Western Div. of Project Review	12136 W. Bayland Ave. #330 Lakewood, CO 80228-2115	
Nick Nicholson Dredge America	8800 Northwest 112 th St. Kansas City, MO 64153-2026	
Wes Anderson Engineering	PO Box 427 Bethel Island, CA 94511-0427	
Terry Huffman, PhD Huffman & Carpenter Inc.	700 Larkspur Landing Cir. Larkspur, CA 94939-1710	
Huffman & Carpenter, Inc.	5303 Louie Lane Suite 1 Reno, NV 89511-1822	

	Carlsbad, CA 92009-9317	
Greg DeYoung Wildlands, Inc.	5731 Manzanita Ave. Carmichael, CA 95608-6563	
Leslie Gecy Western Wetland Systems	1155 North 1000 East Orem, UT 84097-3416	
Ken Myers Aqua-Terra Construction and Engineering, Inc.	PO Box 10260 Gullport, MS 39505-0260	
Dennis Wenger Biowest, Inc.	1063 West 1400 North Logan, UT 84321-2291	
Doyle Pergane Jack Johnson Company	1777 Sun Peak Drive Park City, UT 84098-6725	
Ramona Rukavina Mountain West Ecological Consulting, Inc.	PO Box 486 Providence, UT 84332-0486	
Kent Covey	1250 Wasatch Drive Salt Lake City, UT 84108- 1939	
William Moellmer	288 North 1460 West PO Box 144870 Salt Lake City, UT 84114- 4870	
US Fish & Wildlife Service	Lincoln Plaza 145 East 1300 South, Suite 404 Salt Lake City, UT 84115- 5400	
Lee Brown magCorp	238 North 2200 West Salt Lake City, UT 84116- 2981	
Federal Highway Administration	2520 West 4700 South Suite 9 Salt Lake City, UT 84118- 1880	
Karri A. Smith KA Smith Consulting	PO Box 521107 Salt Lake City, UT 84152- 1107	
Jaime White	820 East Sherman Ave. Salt Lake City, UT 84105- 2237	
Keith H. Wagstaff, Director Salt Lake County Mosquito	PO Box 367 Midvale, UT 84047-0367	
Nate Tuttle Morton Salt	PO Box 506 Grantsville, UT 84029-0506	
Lee Mitchell Mitchell's Landscaping	2184 East 33 rd South Salt lake City, UT 84109- 2690	
R. Clark Emigration Improvement	PO Box 58945 Salt Lake City, UT 84158- 0945	

U.S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

RECORD OF DECISION

Legacy Parkway
Salt Lake and Davis Counties, Utah

A. DECISION

The Federal Highway Administration (FHWA) hereby approves the selection of the Preferred Alternative for the Legacy Parkway as identified in the Final Environmental Impact Statement (Final EIS) dated July 14, 2000. This approval constitutes FHWA acceptance of the Preferred Alternative alignment of the Legacy Parkway and completes the approval process for additional access to Interstate 215 (I-215) and Interstate 15 (I-15) as described in the Request for Additional and Modifications of Access Points on I-215 and I-15.

This decision is based on the information presented in the *Legacy Parkway Final Environmental Impact Statement (EIS) and Section 4(f), 6(f) Evaluation* prepared by the FHWA, Utah Department of Transportation (UDOT), and the U.S. Army Corps of Engineers, released for public review in July 2000. A complete description of the Preferred Alternative and the Legacy Parkway alignment, henceforth referred to as the Selected Alternative, is set forth in the Final EIS. The Final EIS and the entire project record is available for review by request to the Utah Division of FHWA.

The Selected Alternative is part of a shared transportation solution planned for the corridor. Projections of travel demand over the study period (1995-2020) indicate that the travelers in the North Corridor will need a range of transportation improvements to meet the projected demand including enhanced transit, additional highway lanes, and travel management systems. The Legacy Parkway will provide a portion of the transportation facilities needed in the North Corridor to accommodate the safe and efficient movement of people and goods through 2020. During the regional planning process and the National Environmental Policy Act (NEPA) process, a Shared Solution has evolved to meet future transportation demand, combining the Legacy Parkway, I-15 North improvements, expanded transit, intelligent transportation systems (ITS), travel demand management (TDM), and transportation systems management (TSM).

The proposed improvements to I-15 North are being evaluated in a separate EIS, which has been coordinated with the Legacy Parkway EIS. While each project is considered separately, FHWA has developed a record that enabled the public and the decision makers to be aware of the relationship of the two projects to the overall transportation needs in the North Corridor by developing parallel Chapters 1 and 2 for the separate EISs.

The Final EIS supports the conclusion that all of these transportation system elements must be employed to help satisfy the future transportation needs. Without the implementation of the transportation improvements included in the Shared Solution, the existing systems (roads and transit) would accommodate 57 percent of the 2020 demand. If Utah Transit Authority (UTA) and UDOT implemented all projected improvements to transit, applied all travel management systems, and

expanded I-15 to 10 lanes, the system would accommodate 74 percent of the 2020 demand. By implementing all of the Shared Solution, including building the Legacy Parkway described herein, approximately 90 percent of the travel demand projected for 2020 will be satisfied. In this multi-modal approach, each component enhances the ability to meet the demand.

The Selected Alternative is a four-lane, limited-access, divided highway extending approximately 22.5 kilometers (14 miles) from I-215 at 2100 North in Salt Lake City, Utah, northward to I-15 and U.S. 89 near Farmington City, Utah. The Legacy Parkway is located within both Salt Lake County and Davis County. Overpasses (no access) will be provided at Center Street in North Salt Lake, and Glovers Lane, State Street, and Burke Lane in Farmington. Underpasses will be provided at Sheep Road, Denver & Rio Grande (D&RG) Rail Road, and 1250 West in Centerville. Interchanges will be provided at I-215 in Salt Lake City, 500 South in Woods Cross, Parrish Lane in Centerville, and I-15/U.S. 89 in Farmington. The Legacy Parkway is fully funded by the State of Utah.

Three frontage roads will be provided on the alignment to maintain existing access. One will begin 0.7 kilometers (0.4 miles) south of the proposed 500 South interchange in Woods Cross. This frontage road will continue north, along the western side of the alignment, to Pages Lane. The second frontage road will begin at 1100 West in West Bountiful and proceed northeast along the eastern side of the alignment to Porter Lane. The third frontage road will be parallel to the alignment and on the western side through Centerville; it will begin east of the existing terminus of 1250 West and end east of the southern terminus of 650 West. A multiple-use trail for pedestrians, bicyclists, and equestrians will parallel the highway.

B. ALTERNATIVES CONSIDERED

Summary of Alternatives

This Record of Decision is based upon consideration of all of the alternatives described and evaluated in Chapters 2 and 4 of the Final EIS. The Final EIS explains the criteria used to screen alternatives down to those studied in the EIS for detailed analysis. Initially, all reasonable *non-highway alternatives* (arterial system improvements, ITS, TSM, TDM and maximum reasonable future transit) were analyzed based on operational features, constructibility, safety, capacity, cost, and demographic characteristics. However, the *non-highway* alternative did not meet the 2020 travel demand and therefore was not developed as an independent alternative. For the second screening, all reasonable I-15 expansion alternatives were added to the *non-highway* alternative. It still left a significant portion of the public demand unserved. Facing the need for more capacity, the Shared Solution evolved adding new highway alignments to the *non-highway* alternative and I-15 expansion. The first level of highway alignment analysis in the EIS considers a wide range of new highway corridors within the study area. These alternative highway corridors were judiciously reduced to the number that may be seen analyzed in detail in the EIS. Compared to the corridors selected for further study, each of the corridors dropped had either a greater environmental or land use impact, or both, and had a higher cost. The EIS addresses alternate locations (alignments) for a parkway within the selected corridors. The Final EIS also evaluates whether construction of the Legacy Parkway should be delayed until other transportation improvements are undertaken.

The No-Build Alternative is defined as proceeding with neither building the Legacy Parkway nor I-15 North improvements. However, this alternative does include: the recently completed initial construction of inner lanes on I-15 north of 600 North in Salt Lake City, the current I-15 South reconstruction project, approved improvements to U.S. 89, programmed travel demand management strategies, the maximum transit service that can be reasonably expected to be developed by UTA, and assumes that local entities would construct other projects to alleviate anticipated local transportation system deficiencies. This no-build scenario was used in the Final EIS as a realistic projection of conditions if the Legacy Parkway were not constructed.

Responding to comments on the Draft EIS, the Final EIS evaluated a possible no-build scenario that included the full reconstruction of I-15 North along with transit enhancements and travel demand management. This alternative was an evaluation of constructing the I-15 North project before the proposed Legacy Parkway. Experience with the I-15 South project shows that reconstruction of the I-15 North project will be extremely disruptive and perhaps unacceptable without an alternate freeway facility like I-215 and other principle arterials such as State Street, 700 East, and Redwood Road which were improved to accommodate the detoured traffic. In addition, the travel demand projections indicate that the additional highway lanes of the Legacy Parkway and the I-15 North project are needed to meet the 2020 travel demand. As a result, the Final EIS and record reflect that it is not reasonable to assume that the 10 lane I-15 North would be constructed prior to the construction of the Legacy Parkway, and therefore this no-build scenario was not included for further analysis.

Expanded Transit, Travel Demand Management, System Demand Management, and Intelligent Transportation Systems were evaluated as alternatives to the Parkway. Responding to comments on the Draft EIS, the Final EIS evaluated how these measures alone would accommodate travel demand. Taken all together these measures would meet approximately 9 percent of the 2020 demand; however, they would still leave 34 percent of the 2020 demand unmet. This is unacceptable and, therefore, these measures alone are not reasonable alternatives to the Legacy Parkway. However, the measures have been included in all alternatives evaluated and are an important part of the Shared Solution. As explained below, they are a part of the Shared Solution for the North Corridor.

Segment Alternatives

Alternative A is the easternmost alternative for the Legacy Parkway. It would include two frontage roads, two service interchanges at 500 South and Parrish Lane, a multiple use trail, landscaping, and noise mitigation. The Legacy Nature Preserve would be 440 hectares (1,088) acres and the wildlife mitigation would be the same as described for the Selected Alternative.

The effects of the approximately 22.5 kilometer (14 miles) Alternative A include:

- impact 1.9 hectares (4.8 acres) of recreation area,
- impact two archeological sites and one historic property,
- segment four cities (segment areas where future development is expected to occur from the

rest of the city),

- impact 34 hectares (84 acres) of federally designated prime farmland,
- total impact to 134 hectares (331 acres) of farmland,
- displace 7 residences and 16 businesses,
- exceed state noise standards at 41 of 63 modeled sensitive noise receptors,
- displacement of 123 groundwater rights,
- fill 44 hectares (108 acres) of wetlands,
- direct loss of 290 wetland functional units,
- indirect loss of 315 wetland functional units,
- segment 26 hectares (63 acres) of wetlands to the east of the alignment,
- be within 0.6 kilometers (0.4 miles) of the peregrine falcon aerie,
- culvert 0.9 kilometers (0.6 miles) of total stream length,
- 1 kilometer (0.6 miles) of the alignment right-of-way (ROW) being within the Federal Emergency Management Agency (FEMA) floodplain,
- 12 hectares (29 acres) of the FEMA floodplain being filled within the alignment ROW,
- 98 hectares (242 acres) of the FEMA floodplain being east of the alignment,
- 5 kilometers (3 miles) of the alignment ROW being within the Corps of Engineers floodplain,
- 55 hectares (136 acres) of the Corps of Engineers floodplain being filled within the alignment ROW,
- 23 hectares (57 acres) of the Corps of Engineers floodplain being east of the alignment,
- be within 1.47 kilometers (0.9 miles) of the bald eagle nest,
- be within 0.5 kilometers (0.3 miles) and 0.1 kilometers (0.1 miles) of bald eagle roost sites 3 and 4 respectively,
- wildlife habitat impacted includes 261 hectares (642 acres) of farmland; 23 hectares (58 acres) of urban scrub; 4 hectares (10 acres) of salt desert shrub; and 5 hectares (13 acres) of lowland riparian scrub,
- impact 13 hazardous waste sites, and
- cost \$372 million to construct.

Alternative B is the westernmost alternative in North Salt Lake and Farmington, and would include four frontage roads. It would also include the two service interchanges at 500 South and Parrish Lane, a multiple use trail, landscaping, and noise mitigation. Alternative B would terminate in two locations, at the I-15/U.S. 89 interchange and at I-15 in Kaysville, with a split connection branching off at approximately Lund Lane in Farmington. The Legacy Nature Preserve would be 856 hectares (2,116 acres).

The effects of approximately 24 kilometers (15 miles) Alternative B include:

- impact 5.6 hectares (14.0 acres) of recreation area,
- impact three archeological sites and one historic property,
- segment three cities (segment areas where future development is expected to occur from the rest of the city),
- impact 72 hectares (178 acres) of federally designated prime farmland,
- total impact to 286 hectares (707 acres) of farmland,
- displace 14 residences and 10 businesses,

- exceed state noise standards at 49 of 63 modeled sensitive noise receptors,
- displacement of 132 groundwater rights,
- fill 76 hectares (187 acres) of wetlands,
- direct loss of 602 wetland functional units,
- indirect loss of 983 wetland functional units,
- segment 169 hectares (418 acres) of wetlands to the east of the alignment,
- be within 0.2 kilometers (0.1 miles) of the peregrine falcon aerie,
- culvert 0.9 kilometers (0.6 miles) of total stream length,
- 7 kilometers (4 miles) of the alignment ROW being within the FEMA floodplain,
- 87 hectares (215 acres) of the FEMA floodplain being filled within the alignment ROW,
- 83 hectares (205 acres) of the FEMA floodplain being east of the alignment,
- 11 kilometers (7 miles) of the alignment ROW being within the Corps of Engineers floodplain,
- 157 hectares (388 acres) of the Corps of Engineers floodplain being filled within the alignment ROW,
- 228 hectares (563 acres) of the Corps of Engineers floodplain being east of the alignment,
- be within 1 kilometer (0.6 miles) of the bald eagle nest,
- be within 0.5 kilometers (0.3 miles) and 0.3 kilometers (0.2 miles) of bald eagle roost sites 3 and 4 respectively,
- wildlife habitat impacted includes 343 hectares (846 acres) of farmland; 12 hectares (30 acres) of urban scrub; 4 hectares (10 acres) of salt desert shrub; and 7 hectares (18 acres) of lowland riparian scrub,
- impact 8 hazardous waste sites, and
- cost \$451 million to construct.

Alternative C is the westernmost alternative in Centerville, and would include three frontage roads. It would stay west of Sheep Road and extend from approximately 3 kilometers (2 miles) north of Parrish Lane to approximately 1 kilometer (0.6 miles) south of Lund Lane in Centerville. Alternative C is the same as the Locally Preferred Alternative in the Draft EIS.) It would also include the two service interchanges at 500 South and Parrish Lane, a multiple use trail, landscaping, and noise mitigation. The Nature Preserve would be 621 hectares (1,535 acres).

The effects of the approximately 22.5 kilometer (14 miles) Alternative C include:

- impact 5.5 hectares (14.1 acres) of recreation area,
- impact two archeological sites and one historic property,
- segment two cities (segment areas where future development is expected to occur from the rest of the city),
- impact 36 hectares (90 acres) of federally designated prime farmland,
- total impact to 146 hectares (361 acres) of farmland,
- displace 5 residences and 9 businesses,
- exceed state noise standards at 38 of 63 modeled sensitive noise receptors,
- displacement of 108 groundwater rights,
- fill 60 hectares (147 acres) of wetlands,

- direct loss of 476 wetland functional units,
- indirect loss of 757 wetland functional units,
- segment 114 hectares (280 acres) of wetlands to the east of the alignment,
- be within 0.07 kilometers (0.04 miles) and 0.6 kilometers (0.4 miles) of the two peregrine falcon aeries,
- culvert 0.9 kilometers (0.6 miles) of total stream length,
- 2 kilometers (1.2 miles) of the alignment ROW being within the FEMA floodplain,
- 16 hectares (40 acres) of the FEMA floodplain being filled within the alignment ROW,
- 90 hectares (223 acres) of the FEMA floodplain being east of the alignment,
- 11 kilometers (7 miles) of the alignment ROW being within the Corps of Engineers floodplain,
- 135 hectares (333 acres) of the Corps of Engineers floodplain being filled within the alignment ROW,
- 244 hectares (602 acres) of the Corps of Engineers floodplain being east of the alignment,
- be within 1.5 kilometers (0.9 miles) of the bald eagle nest,
- be within 0.2 kilometers (0.1 miles) and 0.4 kilometers (0.2 miles) of bald eagle roost sites 3 and 4 respectively,
- wildlife habitat impacted includes 253 hectares (626 acres) of farmland; 21 hectares (51 acres) of urban scrub; 3 hectares (8 acres) of salt desert shrub; and 5 hectares (13 acres) of lowland riparian scrub,
- impact 12 hazardous waste sites, and
- cost \$378 million to construct.

The Selected Alternative or Preferred Alternative is a combination of portions of Alternatives A and C. South of 900 North in Woods Cross, the Selected Alternative would follow the Alternative C alignment. Just north of 900 North, the Selected Alternative would transition to the Alternative A alignment. The Selected Alternative would continue on the Alternative A alignment to a point just north of 500 South in West Bountiful, then transition to an alignment approximately 80 meters (263 feet) east of and parallel to Alternative C. The Selected Alternative would rejoin Alternative C just south of Pages Lane in West Bountiful and remain congruent with Alternative C to Porter Lane in Davis County. At this point, the Selected Alternative would transition east and coincide with Alternative A just south of Parrish Lane in Centerville. From this point to the I-15/U.S. 89 interchange, the Selected Alternative would be congruent with Alternative A. The Legacy Nature Preserve associated with the Selected Alternative would comprise 506 hectares (1,251 acres). An additional 128 hectares (317 acres) would be preserved adjacent to the Farmington Bay Wildlife Management Area to compensate for indirect impacts on wildlife and another 214 hectares (530 acres) consisting of four properties would be acquired to buffer the Great Salt Lake from development and provide for additional habitat. Final wetland mitigation measures will be included within the conditions of the Corps of Engineers 404 Permit.

The effects of the approximately 22.5 kilometer (14 miles) Selected Alternative include:

- impact 4.3 hectares (10.8 acres) of recreation area,
- impact two archeological sites and one historic property,
- segment four cities (segment areas where future development is expected to occur from the rest of the city),

- impact 26 hectares (64 acres) of federally designated prime farmland,
- total impact to 135 hectares (334 acres) of farmland,
- displace 4 residences and 14 businesses,
- exceed state noise standards at 37 of 63 modeled sensitive noise receptors,
- displacement of 110 groundwater rights,
- fill 46 hectares (114 acres) of wetlands,
- direct loss of 301 wetland functional units,
- indirect loss of 365 wetland functional units,
- segment 43 hectares (106 acres) of wetlands to the east of the alignment,
- be within 0.6 kilometers (0.4 miles) of the peregrine falcon aerie,
- culvert 0.95 kilometers (0.6 miles) of total stream length,
- 2 kilometers (1 mile) of the alignment ROW being within the FEMA floodplain,
- 17 hectares (43 acres) of the FEMA floodplain being filled within the alignment ROW,
- 22 hectares (56 acres) of the FEMA floodplain being east of the alignment,
- 7 kilometers (5 miles) of the alignment ROW being within the Corps of Engineers floodplain,
- 86 hectares (213 acres) of the Corps of Engineers floodplain being filled within the alignment ROW,
- 72 hectares (179 acres) of the Corps of Engineers floodplain being east of the alignment,
- be within 1.5 kilometers (0.9 miles) of the bald eagle nest,
- be within 0.4 kilometers (0.2 miles) of bald eagle roost sites 3 and 4,
- wildlife habitat impacted includes 254 hectares (626 acres) of farmland; 21 hectares (52 acres) of urban scrub; 3 hectares (8 acres) of salt desert shrub; and 5 hectares (13 acres) of lowland riparian scrub,
- impact 13 hazardous waste sites, and
- cost \$369 million to construct.

The elements considered in the approval of the Selected Alternative as the preferred alternative are summarized below.

1. Additional Capacity

The Final EIS shows all build alternatives would provide the same level of additional capacity. The Legacy Parkway would provide 16 percent of the capacity needed to meet the 2020 travel demand for the North Corridor. This would provide a minimum level of service (LOS) D on all portions of the Parkway until at least the 2015 time frame and on most portions through 2020. The projections of future LOS depend on the traffic demand forecasts, as well as the effectiveness of all components of the Shared Solution, including transportation management strategies and transit. The LOS predicted by current modeling efforts could change (improve or deteriorate) in the later years of the planning period (2015 and after) depending upon these related factors. Even recognizing the potential for variations, the Final EIS and the record clearly reflects that the North Corridor will need the additional traffic lanes provided by the Legacy Parkway.

2. Alternate Route

All build alternatives will provide a high-speed alternate through route. This will reduce congestion during incidents on I-15 and help the traveling public get to their destinations in a reasonable time.

3. Emergency Services

All build alternatives will enable emergency services to respond in a more timely manner. The Legacy Parkway will provide an alternate north-south route during incidents on I-15. These can be life and death situations and rapid response by emergency vehicles is critical.

4. Minimize Environmental Impacts

The Selected Alternative alignment of the Legacy Parkway reflects an ongoing process of planning that adjusted the alignment to avoid and minimize environmental impacts. As originally conceived in transportation plans, the alignment would have been placed farther west, with impacts to larger areas of wetlands. The Locally Preferred Alternative, proposed in the Draft EIS and included in the Final EIS as Alternative C, generated additional public comments about environmental impacts. In response to these comments, UDOT worked with state, federal, and local officials to adjust the alignment to the Selected Alternative described in the Final EIS.

The Final EIS shows that, of all four build alternatives, the Selected Alternative alignment for the Legacy Parkway impacts the least amount of Prime and State-Important farmland, has the least amount of noise impacts, will be as far away from the peregrine falcon aerie as any alternative, impact as few archeological sites and historical properties as any alternative, and will be as far away from the bald eagle nest site as any alternative. In addition, the Selected Alternative has the second lowest relocation impacts (4 residences and 14 businesses) behind Alternative C, and has the fewest impacts on groundwater rights displaced. The Selected Alternative has the second fewest wetland (114 acres) impacted, 6 acres more than Alternative A (108 Acres). These impacts are described fully in the Final EIS. Based on all of the information presented in the Final EIS and the entire record the FHWA has determined that the Selected Alternative is the environmentally preferred alternative. The minimization and compensation of other specified environmental impacts, are described more fully in the Final EIS and in Section D of this Record of Decision.

Minimize Impacts to Local Communities

The Final EIS demonstrates that the Selected Alternative alignment for the Legacy Parkway minimizes impacts to local communities in an effective manner. Of the four build alternatives it displaces the fewest residences (four compared to five for Alternative C and 7 for Alternative A), displaces 110 ground water rights compared to 108 for Alternative C which displaces the fewest, requires as few displacements of farmsteads as any build alternatives (zero displacements), requires the least amount of new ROW (one hectare less than Alternative A), impacts the fewest state important farmland (zero hectares), and leaves 660 hectares of developable land east of the alignment

ompared to 573 hectares for Alternative A.

Cost

he Selected Alternative alignment for the Legacy Parkway costs the least to construct of all the build alternatives, \$369 million compared to \$372 million for Alternative A.

SECTION 4(F)

s a part of the NEPA process, the FHWA has evaluated the Legacy Parkway project for Section 4(f) and Section 6(f) impacts pursuant to 49 U.S.C. 303(c) and 23 CFR 771.135. Section 4(f) and 6(f) issues are described in Chapter 5 of the Final EIS. The Selected Alternative alignment for the Legacy Parkway impacts several 4(f) properties, including the Jordan River Raceway, Bountiful City Pond and the White House Historic Property, each of which is fully described in Chapter 5 of the Final EIS.

he ramps and interchanges for access to the interstate highway system will have a direct impact on land owned by the Utah State Parks and Recreation Division, which includes the Jordan River Raceway. The Jordan River Raceway is an all-terrain vehicle (ATV) and motorcross facility operated by a private concessionaire on land owned and managed by the Utah State Parks and Recreation Commission. The 51 hectares (126 acres) State Park property qualifies as 4(f) because it is a publicly owned public park and recreation facility. A 3.6-hectare (9-acre) portion of this site is also 6(f) because it was purchased with Federal Land and Water Conservation funds.

All of the build alternatives include acquisition of a portion of this land. There is no prudent alternative for connecting the Legacy Parkway to I-215 that avoids use of a portion of this land. The impacts are unavoidable, but will be fully compensated in the mitigation package. The Selected Alternative will require use of the least amount of the Utah State Park and Raceway land in comparison to other build alternatives. The Legacy Parkway ROW will be reduced at this location to the minimum needed to meet geometric design standards. The land used will be replaced with land of at least equal value, location and usefulness. Approximately 1.9 hectares (4.8 acres) of Utah State Park land will be used. The Utah State Parks has agreed to accept approximately 6.6 hectares (16.2 acres) of land for replacement. The Selected Alternative is the least damaging alignment to this Section 4(f) property. Based on these considerations, FHWA concludes that there is no feasible and prudent alternative to the use of the land from this property and that the Selected Alternative includes all possible planning to minimize harm to these properties resulting from such use.

The Bountiful City Pond is not designated as a park, recreation area, or wildlife refuge. It was considered under 4(f) because Bountiful City stated that the pond is a significant recreational resource within the community. At the Bountiful City Pond, the Legacy Parkway ROW will be reduced to the minimum possible for a roadway that meets design standards. Approximately 2.4 hectares (6 acres) at the southeastern corner of the Pond property will be used for the ROW; this location is not used for recreation. Bountiful City will accept 4 hectares (10 acres) of land as replacement and mitigation.

The impacted shoreline will be reshaped to provide similar habitat and uses. Of the Build alternatives, only Alternative A would avoid this impact. Alternative A would result in increased community impacts including more relocations and displacements, noise and severing of the city of West Bountiful. Avoidance of the Bountiful City Pond with a modified alignment would impact approximately 1.2 additional hectares (2.9 acres) of wetland resources and would cost more than the Selected Alternative. The modest impacts to the Pond, the additional environmental impacts of avoidance and the adequacy of mitigation all support the conclusion that there is no feasible and prudent alternative to the Selected Alternative and that all possible planning to minimize the harms included in the project.

The White House Historic Property is eligible for inclusion on the National Register of Historic Places. It will be impacted by the State Street overpass in all build alternatives. State Street is the primary east-west connection between parts of Farmington, necessary for transportation and community cohesion. Relocating State Street and the overpass to avoid the White House would cause substantial alternate adverse community impacts and disruption. There is no prudent and feasible alternative which avoids the historic resource. The State Historic Preservation Officer's approval of the Determination of Eligibility and Finding of Effect on this property is in Appendix E (Section 4(f)/6(f) Properties) of the Final EIS. To mitigate for this unavoidable impact, the FHWA and the UDOT have executed a Memorandum of Agreement (MOA) in cooperation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation. The MOA requires that the UDOT conduct an Intensive Level Survey Form in accordance with the U.S. Secretary of Interior's Standards and Guidelines for documentation (48 F.R. 44728-37). All actions will be coordinated with the State Historic Preservation Officer and the Advisory Council for Historic Preservation. A copy of the MOA is contained in Appendix O of the Final EIS.

Alternative B and C would require the acquisition of a small parcel from the Farmington Bay Waterfowl Management Area including the parking area for the eastern entrance. Alternative B would require approximately 0.2 hectares (0.5 acres) and Alternative C would require 1.2 hectares (3.0 acres). The Selected Alternative alignment for the Legacy Parkway avoids direct use of land at the Farmington Bay Waterfowl Management Area. Vehicular access to the southern entrance of the Farmington Bay Waterfowl Management Area will be disrupted by the closure of Pages Lane. A pedestrian overpass at Pages Lane will allow for hikers, bikers, and horses to maintain current access to Farmington Bay Waterfowl Management Area. Construction of a frontage road from 500 South will also allow vehicle access to Farmington Bay Waterfowl Management Area to continue. Chapter 5 of the Final EIS explains that the Legacy Parkway would not constitute a constructive use of this site. Notably, the mitigation package proposed for the Legacy Parkway includes a 317-acre parcel that will enhance the functions and uses of the Farmington Bay Waterfowl Management Area. Final wetland mitigation measures will be included within the conditions of the Corps of Engineers 404 Permit.

Inter-agency consultation concerning the 4(f) properties has been completed. This coordination has involved the Utah Department of Natural Resources, Division of Wildlife Resources; the City of Bountiful; the Corps of Engineers; the Utah Department of Natural Resources Division of Parks and Recreation; the Department of the Interior; the Utah State Historic Preservation Office; and affected Native Americans. Based on these consultations and all information in the record, FHWA concludes

at there is no feasible and prudent alternative to the use of the land from the Section 4 (f) properties and that the Selected Alternative includes all possible planning to minimize harm to these properties resulting from such use.

MEASURES TO MINIMIZE HARM

As the Selected Alternative alignment of the Legacy Parkway was developed and reviewed through state and local planning stages and the NEPA process, the alignment underwent numerous changes to minimize adverse environmental impacts. This process is described in Chapters 1 and 2 of the Final EIS. In its initial transportation planning, the state and local communities considered possible alignments for the Legacy Parkway considerably to the west of the Selected Alternative. These western alignments would have had substantially greater impacts on wetlands than the Selected Alternative, although such western alignments offered benefits to the local communities.

In the Draft EIS, UDOT proposed an alignment designated as the Locally Preferred Alternative. The Locally Preferred Alternative, included in the Final EIS as Alternative C, reflected UDOT's efforts to balance environmental concerns with social and community needs at that stage of project planning.

The Selected Alternative fully described in the Final EIS combines elements of alternatives described in the Draft EIS, specifically the Locally Preferred Alternative and Alternative A. By combining these alternatives, the Selected Alternative further reduces the environmental impacts of the Legacy Parkway. This ongoing process of project adjustment reflects a meaningful public process that resulted in an alignment for the Legacy Parkway which can meet transportation needs with significantly minimized social and environmental impacts.

Having taken steps to avoid and minimize impacts by adjusting the alignment, UDOT also identified ways to compensate for unavoidable adverse impacts of the Selected Alternative with compensatory mitigation. The anticipated impacts and the selected minimization and compensatory mitigation are briefly described below.

1. Land Use Impacts

The Final EIS and record demonstrates that the Legacy Parkway will be consistent with most of the land and use plans of the cities in the study area. However, the Legacy Parkway will not be consistent with components of the Jordan River/Airport Master Plan and the General Plan of the City of Centerville. These plans anticipated an alignment located to the west of the Selected Alternative for the Legacy Parkway. Overall, the Legacy Parkway will not require major revision of any of the cities' land use plans.

All information in the Final EIS and record demonstrates that future development will occur throughout the study area, whether or not the Parkway is built. Creation of the Legacy Nature Preserve will prevent development in a portion of the study area, much of which would otherwise be developed. According to local community planners, there is no evidence that there will be any noticeable difference in the overall growth or land use in the region by 2020 as a result of constructing any of the Legacy Parkway build alternatives. No mitigation measures will be required for the land use resource.

2. Farmland Impacts

The Final EIS shows that the Selected Alternative alignment of the Legacy Parkway will impact 135 hectares (337 acres) of farmland. About 50 percent of the impact will be to irrigated pasture, with the balance being accounted for by dry pasture and irrigated turf. About 6 percent of the total impact will be indirect. Of this farmland approximately 26 hectares (64 acres) of prime farmland, primarily consisting of irrigated pastures will be impacted. The Selected Alternative has a farmland impact conversion rating of 124, which is below the threshold level of 160 points. Therefore, no special mitigation measures will be required.

Owners of farmland directly within the Legacy Parkway ROW will be compensated according to the requirements of Utah law consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended, and other state and federal guidelines. In the case of indirect impacts, the UDOT will determine, based on the comparative cost, whether access is restored or the remainder of the farmland is purchased.

3. Social Impacts

Some social impacts will result from both construction and operation of the Legacy Parkway. New roadway capacity will reduce congestion and improve some traffic patterns. However during construction, traffic will be affected at locations where the mainline or interchange ramps cross existing surface streets. In addition, once completed, the Legacy Parkway will disrupt travel patterns for those accessing some properties west of the alignment. The Final EIS and the response to comments addresses the extent to which the Parkway may impact growth in the region.

The Selected Alternative will impact some public facilities including the Centerville City Public Works property, the Farmington Bay Public Works Facility, and a UDOT maintenance facility. The impacts on public facilities will be mitigated by providing compensation for the real property taken or damaged, or by functionally replacing the publicly owned real property. Improvements will be appraised and fair market value will be paid to the owners.

Local emergency response officials indicate that the Legacy Parkway will improve most emergency response times by relieving I-15-related traffic congestion. However, some response times will increase slightly because vehicle crossings will not be provided at Pages Lane and Porter Lane. After the Legacy Parkway is constructed, local emergency providers will re-examine their respective service areas and make adjustments as necessary to minimize response times.

With respect to Executive Order 12898 (Environmental Justice), construction and operation of the Legacy Parkway will not result in disproportionately high or adverse effects on minority and low-income populations in the study area.

4. Relocation Impacts

Relocation of residences and businesses will be required under the Selected Alternative. A total of 4 residential, 14 businesses, and 10 Horse Paddocks properties will be displaced. In addition to the residences that are within the highway ROW, there are five homes on 1200 North in West Bountiful that UDOT may relocate. The residents will be given the option to be relocated because of concerns

about being separated from their community and the associated impacts of longer response times for public and emergency service vehicle access to their homes.

An acquisition and relocation assistance plan will be developed that identifies the process and schedule for ROW acquisition and relocation of affected properties noted above. The acquisition and relocation program will be conducted in accordance with Utah Law, consistent with the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, as amended.

Economic Impacts

The Final EIS and record reflects that the Legacy Parkway will improve the overall traffic flow and reduce congestion that will result in a reduction in traffic delay and its related economic cost to society. The construction of the Parkway will add many direct and indirect jobs to the Wasatch Front economy. Although no resource-based industries will be impacted by the Legacy Parkway, there are Federal Mineral Reservation Lands in the project area that will be impacted, precluding future gravel mining and potential payments. No impacts on economic recreational resources will occur.

The majority of city officials in the study area support the Legacy Parkway. Currently, as commuters try to minimize their travel times, I-15 traffic congestion spills onto surface streets; the Parkway and the North Corridor Shared Solution will help to relieve this congestion. The city officials also want the Legacy Parkway to be constructed as far west as possible, to minimize the segmenting of developable lands remaining after construction and to keep their cities as unified and contiguous as possible.

Most of the study area is undeveloped; it has more than 5,000 acres of developable uplands. The amount of developable upland remaining (especially east of the roadway) after completion of the project (including the Legacy Nature Preserve) is a major issue for the cities in the study area. In most cases, the cities appear willing to sacrifice some potentially developable land, and its associated tax base, for the traffic congestion relief provided by the Legacy Parkway. However, all but Farmington strongly feel that this issue could be minimized by locating the project as far west as possible, in consonance with their goals of unified, contiguous communities and minimal development costs.

The Selected Alternative results in the third-highest amount of remaining developable uplands for the local communities and will reduce the amount of developable land by 19 percent. It should be noted that some of the reductions in property tax revenues from the above-cited reductions in developable land may be offset by increases in other tax revenues indirectly generated by better transportation access, reduced traffic congestion, and other benefits attributable to the Legacy Parkway.

The division of communities is viewed by several cities as the most serious issue related to the Legacy Parkway. All of these communities are already divided by I-15, railroad tracks, power lines, and pipelines. It is feared that the additional division and segmentation will further reduce the cohesion of these communities and reduce their desirability for current and potential residents. Although local jurisdictions of North Salt Lake, Woods Cross, West Bountiful, Centerville, and Farmington have common concerns regarding the amount and location of remaining developable land as noted above, they also have other economic concerns that prevent grouping their interests into a single analysis. Section 4.5, Economic Impacts, of the Final EIS provides more details about each community's

specific concerns.

6. Joint Development

Joint development represents opportunities to retain or enhance important values within communities affected by a proposed project. There is one joint development opportunity within the Legacy Parkway: the trail for pedestrians, bicyclists, and equestrians that will extend the length of the proposed project and connect to other trail facilities in the area. The trail will connect with the Farmington Creek trail, and is being designed to allow connection with other pedestrian and bicycle facilities that may be developed in the future. The 100-meter (328-foot) highway ROW proposed for this project includes room for the trail. Impacts on wetlands, farmlands, and wildlife from the trail are included in the mitigation for the overall project.

7. Pedestrian and Bicyclist Consideration

The Legacy Parkway will have a direct impact on both the Farmington Creek trail and the State Street pedestrian bridge that crosses I-15 between the City of Farmington and the Davis County Fairgrounds. The Legacy Parkway will be adjacent to the western side of the railroad at State Street, requiring a longer bridge to cross the additional highway lanes of the Parkway. At Pages Lane there will be an overpass for pedestrians, bicyclists, and equestrians.

The Final EIS reflects that the Legacy Parkway will positively impact proposed facilities for pedestrians and bicyclists. It will include the development of a multi-use trail as noted above under Joint Development. A non-motorized vehicle overpass will be provided over Pages Lane. Users of the Legacy Parkway trail, as well as pedestrians or bicyclists coming from east of the Legacy Parkway, will enjoy excellent access via this overpass to the Bountiful City Pond and the southern entrance of the Farmington Bay Waterfowl Management Area.

8. Air Quality Impacts

The Final EIS and record includes a relative assessment of anticipated emissions from the Legacy Parkway in comparison to the No-Build Alternative. Accepted models predict that the Legacy Parkway will reduce 2020 volatile organic compound (VOC) levels, carbon monoxide (CO) levels, and nitrogen oxides (NO_x) levels when compared to the No-Build Alternative. These reductions will result primarily from the increase in travel speed expected as a result of regional highway improvements. To demonstrate conformity, the Legacy Parkway project was included in the 1999-2003 Transportation Improvement Plan and the 2020 *Long-Range Transportation Plan*. The record contains data demonstrating that the Legacy Parkway will conform to the particulate matter (PM₁₀) State Implementation Plan emission budget and will meet ozone and CO conformity requirements for the Transportation Improvement Plan.

A point of clarification involves the use of the 1997 model for air quality modeling purposes. A different version of the model – the 1997 version – was used for modeling air quality because 1997 was the last baseline year for which data existed for the three-county area being modeled for transportation demand (rather than the four-county area). No project-specific air quality modeling was required for this EIS because no hot spot analysis was required (no interchanges are projected

operate slower than LOS C) and no air quality benefits are being claimed as a result of the project. The relevant air quality measure is the conformity analysis. The project was cleared for conformity and is in the current Transportation Improvement Plan and Long Range Transportation Plan. For these reasons, using the 1997 model for air quality was appropriate.

Noise

Noise levels within the study area will increase as a result of projected 2020 traffic volumes. For the Selected Alternative alignment of the Legacy Parkway, noise levels will meet or exceed the 65-decibels A-weighted (dBA) threshold at 37 of 63 sensitive receptors. The specific receptors impacted are identified in Section 4.9 of the Final EIS. As explained in Section 4.9, Noise, of the Final EIS, noise mitigation is likely to be incorporated in the project between 1200 North and 2350 North.

Water Quality Impacts

The Final EIS identified that no violations of water quality standards will result from construction activities and from pollutants generated by traffic using the completed facility. Primary pollutants of concern for the Legacy Parkway will be total dissolved solids, metals, and chlorides. In addition, total suspended solids will be of concern because of the temporary impacts that will result from construction of the Parkway. The record also reflects that construction and operation of the Legacy Parkway will not have a major impact on either the shallow or deeper aquifers in the study area.

Approximately 110 water wells are located within the ROW of the Selected Alternative. For these wells, UDOT will either purchase the groundwater right from the owner or pay for a transfer of the right.

The Selected Alternative will disturb more than 2 hectares (5 acres) during construction. Therefore, a Utah Pollution Discharge Elimination System permit will be required. This permit will stipulate that the contractor design and implement measures, including best management practices, to limit the amount of eroded sediment that leaves the work area.

Subject to approval during the permitting process, UDOT will construct the Legacy Parkway without ditches so that stormwater runoff will sheetflow off the highway. Stormwater will be concentrated only where necessary (to collect drainage on overpasses). This concentrated stormwater will not be discharged directly into wetlands or into streams with quantitative water quality standards. Instead, concentrated discharges will be routed over vegetated filter strips or dissipated back to sheetflow. Road design will include vegetated filter strips to improve the quality of runoff from the highway, in accordance with permit terms to be set by the Corps of Engineers and Utah Department of Environmental Quality. All cleared areas within the ROW except the paved surface will be vegetated.

Wetland Impacts

Construction of the Selected Alternative of the Legacy Parkway will cause direct impact to approximately 46 hectares (114 acres) of wetlands. In addition, there will be indirect impacts that will result in the loss of functional capacity of wetlands in the area. See Section 4.12 of the Final EIS for

more details on direct and indirect impacts to wetlands from the Legacy Parkway.

UDOT has applied for a permit under Section 404 of the Clean Water Act for authorization to fill 46 hectares (114 acres) wetlands. The U.S. Army Corps of Engineers will consider impacts to wetlands, including establishment of required mitigation terms, in acting upon the Section 404 permit application.

The Final EIS for the Legacy Parkway provides a complete description of the wetland impacts expected from the Selected Alternative. Wetlands were evaluated using the Hydrogeomorphic Model (HGM), to quantify impacts to wetland functions. Mitigation for wetland impacts was also evaluated using HGM to identify the resulting improvements to wetland functions. The Corps of Engineers has reviewed the HGM analysis and other information on wetlands as a cooperating agency on the EIS.

The Final EIS fully describes the wetland mitigation package for the Legacy Nature Preserve. The mitigation includes wetland preservation and enhancement, managed under a 506 hectares (1,251 acres). Using HGM, the mitigation results in the preservation of higher functioning wetlands wildlife habitat.

The enhancement activities planned include removing fences and unnecessary roads in the Nature Preserve, filling in unused drainage ditches and re-establishing the hydrologic connection between the Jordan River and the floodplain. Appendix B3 to the Final EIS fully explains the wetland mitigation. The acquisition of the additional 128 hectares (317 acres) of land for specific wildlife mitigation (discussed below) will also add to the mitigation of wetland impacts as it includes 65 hectares (161 acres) of wetlands. The wetland wildlife mitigation area reflects a wetland enhancement mitigation ratio of 4.3 to 1.

The FHWA concludes that the proposed mitigation, as described in the Final EIS, is appropriate mitigation for the impacts to wetlands and wildlife. However, consultation with federal agencies during the 404 permitting process, may result in the supplementation of the wetland mitigation, including possibly providing another 214 hectares (530 acres) consisting of four properties will be acquired to buffer the Great Salt Lake from development and provide for additional habitat. Final wetland mitigation measures will be included within the conditions of the Corps of Engineers 404 Permit.

12. Water Body Modification and Wildlife Impacts

Water Body Modification. The Selected Alternative alignment of the Legacy Parkway will cross nine streams. Stream crossings will have culverts or similar structures to maintain flow. Planned restoration of hydrologic regimes within the Legacy Nature Preserve will re-create approximately 2,360 meters (7,745 feet) of streams and river bank as mitigation for impacts on streams within the Legacy Parkway ROW.

As identified in the *Potential Impacts to Groundwater Flow, Legacy Parkway* report, initial computer simulations included in the record suggest that there will be a small reduction in the permeability of the soil underlying the road bed. This reduction will have minimal effect on groundwater flow and the groundwater table. The reduced permeability of the soil will cause the water table to rise 0.08

eters (0.25 feet) on the eastern side of the embankment and to fall 0.08 meters (0.25 feet) on the eastern side of the embankment.

The Jordan River will be bridged, and natural stream substrate culverts will be used along perennial streams (e.g., Farmington Creek) and other large drainages requiring culverts larger than 1.2 meters (48 inches) in diameter to facilitate movement of fish and other aquatic biota. The culverts will be placed at an elevation that will retain natural stream substrates and have the greatest value in maintaining natural conditions. The Parkway ROW will be landscaped and vegetation will initially be irrigated until it is established.

Direct Impacts on Wildlife. All build alternatives will result in removal and alteration of habitat that will cause both direct and indirect impacts on wildlife. These direct impacts on habitat include changes in plant community composition (kind), plant structure (life form), and possibly weed invasion. The Legacy Parkway will also cause direct impacts such as injury and mortality to some mammals, amphibians, reptiles, and birds.

Mitigation will include minimizing impacts on upland habitat by removing only the vegetation that is within the construction ROW. Reclamation and revegetation will occur during and after road construction. Management of habitat in the Legacy Nature Preserve is expected to provide mitigation for wildlife by providing upland and wetland habitat. UDOT will follow specifications outlined in Section 01574 of the Utah Department of Transportation 1999 Metric Standard Specifications for Road and Bridge Construction to minimize impacts of construction of the Legacy Parkway and manage both the ROW and Legacy Nature Preserve for invasive species.

With the Selected Alternative, approximately 1 hectare (2.5 acres) of riparian habitat will be impacted. Direct impacts will include removal of riparian vegetation habitat, reconstruction of channels, and temporary displacement of fish populations. The record reflects that there is minimal quality aquatic habitat, as it relates to fish, in the study area. Therefore, it is anticipated that no permanent impacts will degrade this resource.

The Final EIS includes the results of bird surveys and identifies known raptor habitat. In addition, a qualified wildlife biologist will conduct pre-construction surveys of known nests of raptors within the Legacy Parkway corridor to determine which nests are active. If nests are determined active, UDOT will coordinate with the United States Fish and Wildlife Service (USFWS) and Utah Department of Natural Resources to determine appropriate actions under the Migratory Bird Treaty Act. USFWS Raptor Guidelines will be followed in order to ensure the least amount of impact on the species.

Since publishing of the Draft EIS, the peregrine falcon was delisted as an endangered species. It is still, however, protected as a raptor and a migratory bird. The following are mitigation measures to minimize the take of the peregrine falcon during construction activities and human use. See Appendix D (Biological Opinion) of the Final EIS for an outline of the USFWS recommendations for the minimization of impacts on the peregrine falcon.

Measures shall be implemented during construction to prevent activities from impacting nesting peregrine falcons. UDOT shall require monitoring of the peregrine falcon aerie by a qualified wildlife

biologist for any activities occurring within one mile of the peregrine falcon aerie from the courtship through post-fledgling dependency periods (approximately a 126-day period from February 1 through August 31). If, during monitoring (as per the previous term/condition), the peregrine falcons appear disturbed in any manner, construction activities shall immediately cease and UDOT shall immediately consult with the USFWS prior to continuing construction activities.

Measures shall be implemented to control human use of the area so as to prevent take, particularly harm and harassment, to nesting peregrine falcons and/or their young. Project employees shall be informed of the presence of peregrine falcon and the need to minimize disturbance during nesting. No recreational trail facilities that encourage extended human use of the area (e.g., picnic tables and rest areas) shall be constructed within one mile of the nest and roost sites. ROW fence shall be constructed and maintained along the length of the highway to deter human use of the Legacy Nature Preserve.

Indirect Impacts on Wildlife. The Final EIS and the record evaluates potential indirect impacts including habitat fragmentation, barriers to wildlife movement, disturbance from increased traffic and noise, mortality from roadkills, and increased concentrations of chloride and total dissolved solids from winter salting operations. The effects of barriers are expected to be more pronounced on ground-dwelling species than on birds and plants. These impacts are expected to be permanent. Mitigation for wildlife impacts (both direct and indirect) will occur in the Nature Preserve, which will be managed for the express purpose of supporting wildlife.

The following are restoration measures to be implemented within the Preserve that benefit wildlife.

- Selectively fence the perimeter of the Preserve.
- Remove interior fences within the Preserve.
- Restrict or eliminate grazing within the Preserve.
- Remove roads not required for management.
- Fill in abandoned and unused drainage ditches.
- Restore the connection between the Jordan River and its floodplain.

The Final EIS and record reflects that it is difficult to precisely quantify indirect impacts on wildlife associated with the proposed Legacy Parkway because there is no consensus on the science. However, some available literature does document population level effects from roadway operation. While the Legacy Nature Preserve will provide benefits to wildlife, UDOT will provide additional compensation for wildlife in light of the range of scientific views on indirect wildlife impacts.

Based on the estimates for the Legacy Parkway to cause indirect impacts on wildlife and the importance of the Great Salt Lake habitat to wildlife, UDOT will acquire 128 hectares (317 acres) of and (through fee title purchase) for additional wildlife wetland mitigation. This is in addition to the wildlife mitigation that will occur in the Legacy Nature Preserve. Location of this 128 hectares in the northern portion of the study area, in conjunction with identified currently protected areas and the Legacy Nature Preserve, will provide a protective buffer for the Great Salt Lake ecosystem in the project area. The perimeter of the area will be fenced and wetland enhancement efforts will be conducted within this area.

This additional mitigation land is adjacent to the Farmington Bay Waterfowl Management Area. It

will buffer the Management Area from future development and is important with respect to high lake levels, as the property that will be acquired was a major source of bird use during the 1985 flood. Approximately 327 hectares (808 acres) of habitat provided by the Legacy Nature Preserve are above the FEMA floodplain. The acreage above the floodplain, along with the placement of equalization culverts under the roadway to maintain sheetflow conditions and allow floodwater to pass back and forth beneath the roadway, will provide upland habitat for wildlife in high-water years.

3. Floodplain Impacts

Portions of the Legacy Parkway will require construction in the FEMA 100-year floodplain of streams and of the Great Salt Lake, including placing highway fill and installing drainage structures at the stream crossings. However, the roadway surface will be sited well above the 100-year flood elevation for both the streams and the Great Salt Lake.

Drainage structures will be designed to pass the 100-year flood without overtopping the road or narrowing the regulatory floodway. Riprap and other measures will be provided at the ends of drainage structures to control erosion where appropriate. Equalization culverts will allow the floodwater to pass back and forth beneath the roadway to preserve the natural and beneficial floodplain values. The Final EIS provides information demonstrating that the floodplain impacts are minor and can be addressed through appropriate design and construction techniques. As a result there will be no significant encroachment on the floodplain.

4. Threatened and Endangered Species

The FHWA initiated consultation with the USFWS to address issues of endangered or threatened species. On February 11, 1999, the USFWS provided a no jeopardy biological opinion on the effects of the Legacy Parkway on the peregrine falcon and the bald eagle, which is included in Appendix D of the Final EIS. Since that time the peregrine falcon has been removed from the list of threatened and endangered species.

A pair of bald eagles nest within 800 meters (0.5 miles) of the study area. The Selected Alternative ROW is located 1.5 kilometers (0.9 miles) from the bald eagle nest. The Legacy Parkway has the potential to impact the bald eagle during construction activities. The following reasonable and prudent measures to minimize impact to the bald eagle, and terms and conditions to implement these measures, are outlined by the USFWS in the *Biological Opinion* found in Appendix D of the Final EIS.

Within the Nature Preserve, measures shall be implemented to prevent construction activities from impacting nesting or wintering bald eagles. UDOT shall require monitoring of the bald eagle nest by a qualified wildlife biologist for any activities occurring within one mile of the bald eagle nest and within the Legacy Parkway ROW, from the courtship through post-fledgling period (approximately 164-day period from January 1 through August 31).

During monitoring, the bald eagles appear to be disturbed in any manner, construction activities shall immediately cease and UDOT shall immediately follow the reporting requirements issued in the

Biological Opinion. Consultation with the USFWS is required prior to continuing construction activities. No construction activities (except for limited hauling activities) shall occur from November 1 through March 31 within one-half mile of the bald eagle winter roosting sites while a bird is on the site, which is normally a 60-day period.

Measures shall be implemented to control human use of the area so as to prevent take, particularly harm and harassment, to nesting bald eagles and/or their young as well as to wintering bald eagles. Project employees shall be informed of the presence of the bald eagle and the need to minimize disturbance during nesting and wintering periods. No recreational trail facilities that encourage extended human use of the area (e.g., picnic tables and rest areas) shall be constructed within one mile of nest and roost sites. ROW fences shall be constructed and maintained along the length of the highway to deter human use of the proposed Legacy Nature Preserve.

Section 7(a)(1) of the Endangered Species Act (ESA) directs federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of threatened and endangered species. The USFWS recommends the following conservation measures be implemented as activities to minimize or avoid adverse impacts of the proposed project.

Project planning efforts have taken measures toward selection of a highway option that is least environmentally damaging. Although many factors affect this analysis, for the bald eagle, UDOT has selected an alignment that will:

- Minimize loss and fragmentation of potential foraging habitat and reductions in prey base for the bald eagle.
- Avoid disturbance of bald eagle nest and winter roost sites.

UDOT will work with the design-build contractor, USFWS, and Utah Department of Natural Resources to establish a program to monitor the bald eagle nest site and winter roost sites and will monitor the sites.

The Legacy Nature Preserve will be managed as wetland and wildlife habitat thus providing some compensation for possible impacts to the peregrine falcon and the bald eagle species. No recreational facilities or uses are proposed for the Preserve.

15. Historic and Archaeological Preservation

The Selected Alternative will adversely affect one historic property, the White House. Pursuant to 36 CFR 800.5(e), the Utah State Historic Preservation Officer was consulted regarding methods to minimize the effects of the project on the historic qualities of the property. Historic properties eligible under Criterion C will be documented to Utah State Intensive Level Survey standards before demolition. The State Historic Preservation Officer's approval of the Determination of Eligibility and Finding of Effect is in Appendix E (Section 4(f)/6(f) Properties) of the Final EIS.

The Selected Alternative will also impact two eligible archaeological sites. These sites are located in Davis County. Pursuant to 36 CFR 800.5(e), archaeological sites will be excavated and data recovered in accordance with the approved Memorandum of Agreement (Appendix O - Section 106

Memorandum of Agreement of the Final EIS). The Advisory Council on Historic Preservation, the Utah State Historic Preservation Officer, and the Utah Division of Indian Affairs are signatories, as well as UDOT and FHWA. All excavation activities will be coordinated with the Utah State Historic Preservation Officer and the Advisory Council on Historic Preservation.

16. Hazardous Waste Sites

There are 13 hazardous waste sites of concern identified within the Legacy Parkway ROW that will be impacted by construction. Measures will be implemented to prevent the spread of contamination or worker exposure during construction. In the case of known chemical hazards, the site remedy may be negotiated through Environmental Protection Agency (EPA) and/or the Utah Department of Environmental Quality, with remedial action conducted by a qualified hazardous waste contractor certified by the U.S. Occupational Safety and Health Agency. If contamination by unknown chemicals is suspected, the Legacy Parkway construction contractor will stop work. The contractor will employ the services of a certified industrial hygienist and environmental scientists capable of identifying the nature of the hazard and appropriate response measures.

Two of the sites of concern, Bountiful Sanitary Landfill and the Northwest Oil Drain site, have specific mitigation measures identified. The impacts on the Bountiful Sanitary Landfill will be mitigated by relocating the facilities and removing landfill waste material located within the ROW, and disposing of it at a permitted facility. The Northwest Oil Drain site will be mitigated by avoidance through bridging.

17. Visual Impacts

The Legacy Parkway will create some visual impacts to residential and recreational areas. UDOT has developed a plan to minimize adverse visual impacts. The highway will be revegetated, which will help soften the visual impacts of the highway and blend it into the existing landscape. Native plants will be used where possible. The work will be completed as quickly after construction as possible to minimize the amount of time the highway grade will be more visible.

Landscaping and a trail system are planned for the entire length of the Legacy Parkway. The landscape concept includes different approaches for different areas. Near the I-215 intersection, existing natural grasses will be used. In light industrial areas, there will be moderate tree and shrub planting on the east to screen the view from the highway. Windows to the east will maintain views of the mountains; to the west, open views will be maintained.

Denser tree and shrub plantings and an earthen berm will be provided in residential areas to buffer the view of the highway. Where the Legacy Parkway is adjacent to I-15, grasses will be used, trees will buffer the view of power lines, and views west to Farmington Bay will be maintained. At the interchanges and other points of interest, perennials and wildflowers will be used, along with trees and grasses.

18. Energy Impacts

The Final EIS and the record reflects that compared with the No-Build Alternative, the build alternatives will add capacity (i.e., carry more traffic), which will decrease travel times and smooth traffic flows. The build alternatives will have the greatest benefit on those fuel economy factors related to travel conditions and driver behavior. This expected overall decrease in energy consumption will not entail any appreciable energy savings benefit, nor will it cause or contribute to additional problems. The construction of all the Legacy Parkway build alternatives will involve operation of heavy machinery, with a resulting impact on energy usage.

19. Construction Impacts

Construction of any of the build alternatives, including any associated improvements and modifications of existing streets and highways, will create a category of temporary construction-related impacts that result from ground disturbance and the operation of construction equipment. Possible impacts will be on air quality, noise, water quality, wetlands, wildlife, cultural resources, visual resources, business operations, utility service, railroad operations, and traffic flow. The nature and timing of these impacts will be related to the construction methods and sequencing used on the project. Most of these impacts to environmental resources have been identified above. UDOT will follow permit conditions and best management practices to minimize these impacts.

UDOT will implement a thorough public information program to alert the community of construction activities and to minimize impacts. The public will be informed of work hours in areas where construction is needed to connect to the existing highways and alternate routes to travel to businesses and residences. Construction signs will also be used to notify motorists about work activities and changes in traffic patterns. In addition, night and weekend work could be scheduled to shorten the duration of the construction impacts, so long as permit requirements are satisfied. Aiming construction lights directly at the work area and/or shielding the lights from nearby residences will minimize impacts from lights used during nighttime construction. Construction activities will be limited during certain periods to protect threatened and endangered species. Utility agreements will be completed to coordinate utility relocation and minimize impacts.

20. Cumulative Impacts

Section 4.21 of the Final EIS, Cumulative Impacts, analyzes the potential impacts that could result from the incremental consequences of the proposed project when it is added to other past, present, and reasonable foreseeable future projects or actions. For the Legacy Parkway these projects included: I-15 North Reconstruction, U.S. 89 widening and controlled access, 5600 West reconstruction, and land development that would occur throughout the study area driven by population growth. Currently, ROW acquisition for an alignment north and west of the airport is included in 2020 Long Range Transportation Plan. However, due to low projected future traffic volumes and eroding support for this project, this illustrative project was not included in the analysis of cumulative impacts.

Results of the analysis concluded the cumulative effects of proceeding with the Legacy Parkway on most environmental resources would be nearly the same as, or less than, those of the No-Build Alternative. For a more detailed discussion of cumulative impacts see Section 4.21 of the Final EIS.

Summary: Based on a balanced consideration of the environmental and social impacts and the mitigation included as part of the proposed project, the FHWA has determined that the Selected Alternative is the environmentally preferred alternative.

E. MONITORING AND ENFORCEMENT PROGRAM

Monitoring and enforcement of the above-described measures to minimize harm is a commitment of this Record of Decision. The Corps of Engineers will also consider monitoring as a part of its 404 permit decision. The major responsibilities under these procedures are summarized below.

Many of the mitigation measures listed above will be incorporated into the contract, plans, and specifications and will be monitored in accordance with the construction/post construction monitoring plans. Enforcement of the contract provisions and monitoring of the project is the responsibility of the selected UDOT Project Manager. The UDOT Legacy Team will be responsible to ensure that the measures to minimize harm are incorporated into the plans and ROW acquisition activities.

As discussed in Chapter 4 (Environmental Consequences) of the Final EIS and in this Appendix B3, UDOT will preserve 634 hectares (1,567 acres) of natural area in the corridor to mitigate for project impacts. Enhancement measures will be implemented within the Legacy Nature Preserve, which will encompass approximately 506 hectares (1,251 acres), of the 634 hectares preserved.

An additional mitigation area of 128 hectares (317 acres) will be managed to buffer the Farmington Bay Waterfowl Management Area. This mitigation will not only protect future areas from development, but also provide a buffer between existing and planned development and existing and future preserved areas. Enhancement will occur as well.

In addition, consultation with federal agencies during the 404 permitting process, may result in the supplementation of the wetland mitigation, including providing another 214 hectares (530 acres) consisting of four properties will be acquired to buffer the Great Salt Lake from development and provide for additional habitat. Final wetland mitigation measures will be included within the conditions of the Corps of Engineers 404 Permit.

The off-site compensatory mitigation areas will be obtained by UDOT in fee title using UDOT's power of eminent domain, as reflected in provisions such as Utah Statutes Section 72-5-103. UDOT has committed to both FHWA and the Corps of Engineers that, should the project obtain all necessary approvals, UDOT will obtain the entire mitigation area in fee title. All mitigation property will be acquired, except for parcels in condemnation, prior to opening any segment of the Legacy Parkway to traffic.

UDOT intends to manage the mitigation area in one of two ways, depending on its location.

a) The approximately 128 hectares (317 acres) adjacent to the Farmington Bay Waterfowl Management Area will be managed by a yet to be determined state agency via an agreement with UDOT.

(b) The Legacy Nature Preserve is a part of UDOT's application for a Clean Water Act Section 404 permit from the Corps of Engineers. The final terms for management of the Nature Preserve will be developed in that permit process. UDOT recommends that the area be managed by UDOT for a five-year period, under Corps of Engineers oversight.

UDOT will fund and conduct certain activities during this five-year period, to improve the wetland and wildlife functions of the Legacy Nature Preserve property. Terms for long term management of the property will be developed in conjunction with the Corps of Engineers. UDOT recommends that the Legacy Nature Preserve will be managed by a suitable entity qualified in wildlife management. Within the Preserve, activities would be limited to those noted above, maintenance of the property, and other possible activities that do not change the intent of the Preserve such as wildlife viewing.

The state will provide appropriate funding for long-term management of the property, pursuant to requirements of a Corps of Engineers approved long-term mitigation management plan. FHWA expects that the terms for long-term management of the Legacy Nature Preserve and other mitigation conditions will be enforceable conditions of the Section 404 permit, when and if issued by the Corps of Engineers.

F. COMMENTS TO THE FINAL EIS

Notice of release of the Final EIS was published in the Federal Register on July 14, 2000. The FHWA provided a 54-day public review period that ended on September 5, 2000. The Final EIS was distributed to federal, state, regional, and local agencies, as well as to some members of the public. In addition, copies were placed in local libraries for use by the general public. A notice of availability of the Final EIS for review was placed in the local newspapers.

During the public review period a public information meeting was held on August 23, 2000, in conjunction with the public hearing held by the Corps of Engineers on the 404 Permit Application for the Legacy Parkway. At the meeting an informal open house was held to allow the public to obtain information about the Legacy Parkway and ask questions of representatives at display tables.

During the public review period on the Final EIS approximately 850 letters were received on both the Final EIS and the Corps of Engineers 404 permit application. After the end of the Final EIS review period, an additional 180 letters were received on the 404 permit application prior to the close of that comment period. The FHWA administrative record included review of all comments received during both the Final EIS and 404 permit application comment period. The vast majority of the comments received since release of the Final EIS repeat issues or concerns raised in comments on the Draft EIS, and were responded to in Appendix Q of the Final EIS. All of the comments received after the Final EIS are addressed in the attached appendix to this Record of Decision. Some major themes were raised by a number of commenters, which are addressed briefly here.

Comments:

Nearly 70 reviewers commented on the need to conduct a Programmatic EIS (or address segmentation of the project) to fully assess the cumulative impacts of the Legacy Parkway as a component of the 130-mile Legacy Highway. Many reviewers believed the outcome was biased in favor of the project, as follows:

- a) minimized the total (cumulative) impacts of the project,
- b) caused roads to be favored because transit is only effective from a regional perspective (as well as land use alternatives that support it) versus a road that is only a piece of the regional road network, and
- c) caused other alternative transportation modes to be less cost effective, by comparison.

Response:

The FHWA has seriously evaluated the appropriate scope of the EIS. A “programmatic EIS” is not an appropriate analysis for this project because it has independent utility and logical termini which does not foreclose any future transportation improvement alternatives. A programmatic EIS is most appropriate for analysis related to a well defined program from which a number of projects will emerge which themselves will eventually have site-specific environmental documents. At this point in time, the “130-mile Legacy Highway” is not developed well enough to support such an EIS.

Because the Parkway can function as a roadway with independent utility and logical termini, it is an appropriate project for a separate EIS. Furthermore, the Parkway needs no part of the 130-mile Legacy Highway concept in order to function, nor does it foreclose any future transportation options to the north or south or within the North Corridor.

The Governor proposed the 130-mile Legacy Highway as a concept, not a program. The proposal included no time frame for development, or identified a dedicated funding source, and there is no certainty that all of the highway will ever be needed or built.

At this time, the 130-mile Legacy Highway is not an “action” as defined in the implementing procedures of NEPA and, therefore, does not require a programmatic EIS. The environmental issues that will exist if and when the 130-mile Legacy Highway or portions of the Highway are built are likely to be substantially different than those that exist now. Consequently, preparing a programmatic EIS will not provide any meaningful or useful information concerning the decision on the Legacy Parkway.

The Final EIS addressed cumulative impacts thoroughly. Section 4.21.2 the Final EIS provides a comprehensive analysis of the cumulative impacts of all other past, present, and reasonably foreseeable projects. Since construction of the 130-mile Legacy Highway is not reasonably foreseeable, as discussed above, its impacts have not been analyzed in the cumulative impact section.

With regards to an analysis of region-wide land use, such factors are addressed by regional and local governmental entities in their long-term transportation planning process. The Final EIS relies on those government plans to project land uses that will occur during the planning period. In developing the EIS, interviews were conducted with local government planning officials to determine future land use. The interview responses are incorporated into the project planning process.

Most of the governments in the study area stated that they are not exclusively implementing the type

of land use changes suggested in these comments and have no plans to do so in the foreseeable future. These governments were also asked if their land use plans would change if the Parkway is not constructed and they responded that they would not. Thus, planned land use changes are not analyzed in the planning process, because there are none.

There is no evidence that local governments in the study area are implementing the type of coordinated planning and restrictive zoning that would be required to achieve the type of land use proposed by the reviewers. There is also no evidence that the legislature is considering any new land use legislation.

Finally, the state and local governments, through regional transportation planning, conduct long term transportation planning. This planning process generated the specific transportation projects – including the Legacy Parkway – that make up the Shared Solution for the North Corridor. The many public and private entities involved in long term transportation planning have not accepted the view of some commenters that significant changes to land use plans are necessary for effective long term transportation planning. The Final EIS reasonably relies on these local, regional and state positions.

The local, regional and state governments involved in land use and transportation planning are also active in the Envision Utah and other projects addressing multi-modal transportation. These leaders uniformly support enhanced transit, including rail transit, as part of the Shared Solution.

This response to alternate transportation modes such as mass transit is covered below.

Comments:

About 25 percent (approximately 600) of the recurring comments addressed consideration of reasonable alternatives. The alternatives suggested by the reviewers largely consisted of the following:

- a) Many comments expressed support for improved mass transit, in general. –A number of specific mass transit alternatives were also recommended by the reviewers, such as:
 - Rail, including light rail/commuter rail, monorail, heavy rail, high-speed rail and personal rapid transit
 - Increasing the number of buses and expanding existing routes
 - Exclusive transit lanes
 - Making I-15 an exclusive High Occupancy Vehicle (HOV) facility
- b) Expansion of existing roadways, including an elevated highway over, or expansion of I-15. Specific concern was expressed that I-15 should be expanded first, and then Legacy Parkway constructed, if needed, or that I-15 should be expanded in place of Legacy Parkway.
- c) Alternative alignments to the Legacy Parkway, such as an alignment across the Bay and the Great Salt Lake
- d) Transportation Management Strategies, such as:
 - TSM solutions, e.g., signage, interchange modifications, etc.
 - TDM solutions, e.g., congestion pricing, carpools, telecommuting, and flexible

work hours

ITS, e.g., magnetic highways

- e) Improved land use and transportation integration, such as a balance of housing and jobs (e.g., increased employment in Davis County), compact, high-density development, and walkable communities

Some reviewers commented that mass transit could not work due to dependability, feasibility of creating a system that takes people where they desire, and the need to have single occupancy vehicles to carry materials. One reviewer believed that UDOT has not responded satisfactorily regarding construction impacts, which should be defined to include the full impact analysis of the resources, materials, and energy used to build the highway, and off-site impacts such as air pollution and habitat disturbance, not just on-site impacts.

Since the range of reasonable alternatives commented on by the reviewers covers the Shared Solution, transportation management strategies and mass transit, these topics were combined in this summary of major recurring comments and responses.

Response:

The full impacts of the Legacy parkway are discussed in the Final EIS. They include both onsite and off-site impacts and are listed by resource in Chapter 4. These impacts are the permanent direct, indirect, and cumulative impacts that will result from the Parkway. These impacts are far broader than construction impacts, which, by definition, are those impacts that occur only during the physical building of the project and relate to the use of the equipment and materials used. They are normally temporary and include such things as dust, noise, and water quality impacts that would occur when the surface of the ground is exposed and heavy construction vehicles are operating.

The EIS has evaluated a reasonable number of alternatives within the reasonable range of alternatives. The alternatives analysis was enhanced in the Final EIS based on comments received on the Draft EIS. In total, the alternatives examined in general and in detail in Chapter 2 of the Final EIS include:

- (a) additional transit;
- (b) use of the existing system with an expanded I-15 (either vertically and/or horizontally and with or without reversible and/or HOV lanes);
- (c) four specific Great Salt Lake alignments for the new road;
- (d) five regional road alignments for a new road;
- (e) ITS, TDM, TSM;
- (f) the combination of I-15, additional transit, ITS, TSM, and TDM; and
- (g) the no-build alternative.

Used in the Final EIS, the term "mass transit" encompasses all modes of mass transit, including light rail, commuter rail, and commuter buses. The Final EIS utilizes various methods to predict the maximum number of users for mass transit. We recognize that more people may utilize mass transit if certain types of mass transit are promoted rather than others. The Final EIS illustrates possible mode mixes, including commuter rail and light rail, as well as buses.

The Final EIS identifies that regional planning studies are currently being undertaken in the corridor in an attempt to determine the best forms of mass transit to implement in the area. These studies will not be complete until sometime in 2001, at the earliest. In light of these ongoing studies, it is not prudent to foreclose any mass transit options, which might happen if certain modes were selected in the Final EIS. Rather than focus on certain modes of mass transit, the Final EIS uses an estimate of the maximum ridership level to determine the portion of the Shared Solution that would be met by mass transit. Thus, at least 12 percent of the future peak travel demand must be met by transit if major congestion is to be avoided, and this number represents an aggressive growth of current transit participation. The actual mode distribution, between buses, light rail and commuter rail, will be determined at a later date.

The Final EIS reflects analysis of mass transit combined with:

- (1) an expanded I-15 to 10 lanes and
- (2) the implementation of traffic management strategies, including
 - (a) TDM, such as enhancing telecommuting, carpooling (through the construction of additional HOV lanes, for example), walking, and bicycling;
 - (b) TSM, such as additional on-ramp metering, traffic surveillance via closed-circuit television, and improved synchronization of traffic signals; and
 - (c) ITS, such as incident management systems and electronic variable-message signs.

Even with the implementation of all of these improvements/strategies, transit alone cannot supply the 2020 capacity provided by the Legacy Parkway. The Shared Solution significantly increases the availability and focus on non-automobile related travel. Mass transit is required to significantly increase its ridership percentage under the Shared Solution and bike trails will be instituted to aid in the integration of non-motorized forms of transportation. As reflected in mode choice surveys and local land use planning considerations, among other things, the Final EIS concludes that the Shared Solution presents the minimum amount of highway investment necessary in light of projected demand. The transit option is not foreclosed, because transit must play a major role in addressing future demand.

This conclusion is reassured by the ongoing efforts of Envision Utah and the regional rail study. These efforts are being undertaken by the state, regional and local officials and private citizens with expertise and interest in regional transportation planning. The governmental officials and many of the private entities involved in these processes support both enhancement of mass transit and construction of the Legacy Parkway.

In response to the comment regarding construction of improvements to I-15 instead of Legacy Parkway, as discussed in Chapter 2 of the Final EIS, the Shared Solution for the North Corridor includes the widening of I-15 to ten lanes. However, also as described in Section 2.1.6 of the Final EIS, not all of the future demand can be met with this project because I-15 cannot be expanded sufficiently to accommodate all of the forecast demand safely and efficiently. The efficiency of each lane diminishes when there are four or more lanes to navigate while entering or exiting the facility.

Also as discussed in the Final EIS, there are no other continuous through roads in this corridor that could be widened or connected to eliminate the need for the Parkway. Double-decking I-15 is not

reasonable from a cost and operational standpoint, and was eliminated from detailed evaluation for this reason. As described in the Final EIS, reliance on a single highway such as I-15 presents serious safety problems in the event of accidents or other incidents and would be so wide as to have operational difficulties.

Reversible lanes also would not work because future traffic volumes in the off-peak direction during peak periods would be too high for the remaining capacity. Repair of existing streets would not add the capacity that is needed in the North Corridor. Therefore, construction of the Parkway as part of the Shared Solution is the most reasonable way to increase capacity. To a substantial degree, the Parkway would function primarily as a separate facility for through traffic. The demand studies demonstrate that the vast majority of people who would use the Parkway would pass through the study area. These studies demonstrate that people within the study area would continue to use I-15 because it is closer to their residences. Interchanges with exits are needed for various reasons, including operation, maintenance, and emergency response.

With regard to constructing I-15 first, this option (Option 2) was evaluated in Appendix G of the Final EIS. As noted in the findings, the costs of reconstructing I-15 North prior to the Legacy Parkway make that option much less reasonable than constructing Legacy first. The costs include additional peak-hour travel costs of \$356 million and additional construction costs of \$62 million.

Another major impact of reconstructing I-15 before constructing Legacy Parkway is on the cities in the North Corridor. The main streets of these Cities would be highly congested during the peak period for the entire four years, due to traffic diverted to these streets in an attempt to avoid the congestion on I-15. This is particularly a concern since no major reliever routes currently exist, which would cause the impact of the additional traffic to be borne by local and collector streets. Access is also of concern. In all likelihood, if I-15 were built first, every other interchange would have to be closed during the construction process. This would have an additional impact on travel times and would reduce accessibility to business and residential properties. In addition, building the Parkway first results in projected travel speeds increases of 35 mph over constructing I-15 first and an increased travel time of 49.4 minutes over constructing I-15 first, as documented in Appendix G of the Final EIS.

As described above, the Final EIS evaluates a reasonable number of alternatives within the range of reasonable alternatives. These alternatives, including mass transit, an expanded I-15 (both horizontally and vertically), increased Transportation Management Strategies, such as increasing HOV lanes and encouraging carpooling, individually and in concert, were adequately evaluated in the Final EIS and record. Notably, the alternative land use scenarios were not considered to be reasonable alternatives. (See response to Programmatic EIS, above, for more information in this regard.)

Comments:

About 10 percent (over 200) of the recurring comments were focused on the travel demand model. Reviewers were concerned about the methodology used for travel demand forecasting, with very detailed, specific comments provided. Many reviewers believe that UDOT's travel demand model is fundamentally flawed and does not produce reliable numbers. Other reviewers commented on the travel demand model per review procedures and that not all of the recommendations were incorporated into the model.

Response:

The FHWA believes that the travel demand analysis is appropriate. The model was modified to include most of the immediate recommendations given to the Wasatch Front Regional Council (WFRC) by an independent Peer Review Group and has been confirmed to be state-of-the-practice. The analysis of travel demand performed with the modified model verifies the original conclusion reached in the Draft EIS that the Parkway is needed. Given this, FHWA does not believe that the use of other assumptions for travel demand modeling, as was provided by some reviewers, is warranted.

Two points of clarification should be noted. Initially, these comments brought to light two errors – one in transcription and one typographical. First, it has become apparent that Table P-11 (Appendix P of the Final EIS) contains errors. After a thorough review of the results, we have determined that the table should be corrected as follows:

	No Build	I-15 Build	Build
Daily			
VMT (miles)	48,560,000	48,550,000 (52,390,000)	48,760,000
VHT (hours)	4,270,000 (2,560,000)	7,217,000 (6,590,000)	7,067,000 (4,240,000)
Average Congested Speed(mph)	11.4 (19.0)	6.7 (7.8)	6.9 (11.5)
	No Build	I-15 Build	Build
AM			
VMT (miles)	8,920,000 (9,447,870)	8,760,000 (8,770,700)	8,780,000 (9,232,340)
VHT (hours)	607,000 (544,000)	555,000 (333,000)	530,000 (377,000)
Average System Speed (mph)	14.7 (17.4)	15.8 (26.4)	16.6 (24.5)
PM			
VMT(miles)	13,650,000 (14,770,000)	13,470,000 (13,500,000)	13,570,000 (14,570,000)
VHT(hours)	2,097,000 (2,000,000)	1,866,000 (1,121,000)	1,835,000 (1,586,000)
Average System Speed (mph)	6.5 (7.4)	7.2 (12.0)	7.4 (9.2)

The error identified in the comment was the result of a transcription error, in which figures from one printout which were in “minutes times 100” were utilized as if they were in “hours.” The mistake was

nited to this table, which is an output table, not an input table. As a result, the errors in the table do not have any effect on the traffic assignment results used as the basis for the project need.

The other error is a typographical one, involving citations to the model used in the EIS. Only one version of the model – the May 2000 version, was used for forecasting travel demand. This model was used for examining the Build and No-Build Alternatives. Unfortunately, the Final EIS erroneously attributes some data to the December 1999 version of the model. These references are an error, but the data presented in the Final EIS is accurate and is the result of output from only one model. We appreciate these errors being brought to our attention by the commenters and regret any confusion they may have caused.

The second point of clarification involves the use of the 1997 model for air quality modeling purposes. A different version of the model – the 1997 version – was used for modeling air quality because 1997 was the last baseline year for which data existed for the three-county area being modeled for transportation demand (rather than the four-county area). No project-specific air quality modeling was required for this EIS because no hot spot analysis was required (no interchanges are projected to operate slower than LOS C) and no air quality benefits are being claimed as a result of the project. The relevant air quality measure is the conformity analysis. The project was cleared for conformity and is in the current Transportation Improvement Plan and Long Range Transportation Plan. For these reasons, using the 1997 model for air quality was appropriate.

Some criticized the Final EIS statement that WFRC had made all of the changes recommended by the Peer Review Group. The WFRC made all of the changes in the summary of the Peer Review's memorandum. The memorandum also had a chart of possible changes, and not all items on the chart were implemented. FHWA acknowledges that WFRC has not updated the model with all of the recommendations addressed by the Peer Review Group in its chart.

In the same regard, there should be no confusion about the Peer Review Group "recommendations." The Peer Review Group specifically "found that WFRC is using standard travel demand modeling procedures" and that the recommended changes were things that WFRC "could" do "to respond to issues of local concern." The WFRC implemented numerous changes and improvements in a reasonable manner. Moreover, changes to the model beyond those suggested for the short term were also made.

Comments:

Nearly 150 reviewers commented on air quality. Most of the reviewers were concerned that air quality models used by UDOT were flawed in that they assume that more highways reduce congestion and increase highway speeds, thus reducing air quality impacts. The reviewers believe that more highways would not improve air quality, but would actually further degrade it.

Response:

The conclusions in the Final EIS concerning air quality reflect the comparison of the air quality of the intensely congested conditions that would exist if the project were not built to those that would exist if the project is built and congestion is lessened. It is these congested conditions that have the worst effect on air quality. The air quality analysis for the Legacy Parkway recognizes the reality of

future congestion on both I-15 and local streets if no projects are constructed. While it is likely that air quality problems would continue to exist in the future even if the Parkway is constructed, failure to provide adequate transportation facilities would only worsen these problems.

Comments:

Nearly 200 reviewers (7 percent of the recurring comments) commented on the need for the Legacy Parkway. Many reviewers supported the need for the Parkway, due to both capacity and safety considerations. Several other reviewers were concerned that the need for Legacy Parkway had not been adequately justified, or believed other solutions (such as mass transit) were better alternatives.

Response:

Currently, the North Corridor is faced with four problems.

- . Lack of Capacity. It is anticipated that the existing system can meet only 57 percent of the 2020 corridor travel demand.
- . Lack of Alternate Routes. Because of the demand on the existing I-15, and the fact that there is no other north-south high-capacity roadway through the corridor, I-15 capacity is strained and its safety and efficiency are decreased. This situation is worsened when I-15 is congested or closed due to incidents; trucks have no alternate route through the corridor, and there is no other high-speed roadway for emergency vehicles.
- . Growing Demand. These situations will worsen as increased travel demand occurs. The future demand will greatly exceed the existing capacity of I-15, resulting in a breakdown in vehicle flow, with stop-and-go conditions during extended peak periods.

Design Deficiencies. Portions of I-15 were constructed nearly 40 years ago, and, by current design standards, it has numerous deficiencies, such as substandard shoulder widths, median treatments, ramp exits and entrances, and interchanges. These deficiencies contribute to congestion, slower traffic speeds, and accidents.

The four-lane Legacy Parkway, a critical element in the Shared Solution, will provide relief for most of the above North Corridor deficiencies and a portion of the 2020 North Corridor demand. The Shared Solution would include:

- ITS measures to fully utilize the capacities of the highway and transit systems;
- TSM to better manage congested areas;
- TDM to encourage less use of single-occupant vehicles, especially during the peak periods;
- Additional transit service (whether it is by more express buses, commuter rail, or some other technology); and
- Enhancement of the highway system, including expanding I-15 North and constructing the Legacy Parkway

Comments:

Nearly 300 reviewers (12 percent) commented on the impacts on growth in the study area. Some reviewers commented that population will continue to grow, with or without the Parkway and additional capacity is needed. Other reviewers commented that the new road will increase demand. Many reviewers commented that the Parkway would urge people to travel more and live further from their jobs, thus increasing traffic and congestion.

Response:

The Final EIS addressed the concept of induced demand, which looks at the impact of a transportation project (here, a highway) on generation of travel and/or generation of growth in an area. Given that quantitative tools for evaluating this complex issue are still under development, the Final EIS presents a discussion and some indicators of numerical consequences.

The Final EIS concludes that the Legacy Parkway will have essentially no effect on the long-term total growth in or of the region, as we assert that nearly all of the study area will be developed within the study period, even if the Parkway is not built. This conclusion is based on (a) past developmental trends; (b) the land being privately owned, which allows it to be economically developed without federal approval; and (c) the consistency of such development with local land use plans. In addition, the study area includes some of the undeveloped land that is closest to the Salt Lake City urban area, making it very desirable for development. Further, such development is consistent with discussions with land use planners, who stated that they expect the land to be developed, with or without the Parkway. As stated in the Final EIS, regional growth is primarily related to economic activity. However, the Legacy Nature Preserve proposed under the Preferred Alternative would not allow any growth in the 506-hectare (1,251-acre) area that would be left as open space.

In contrast to total growth, the Final EIS acknowledges that the Parkway would affect the timing of this development within the study period, causing the growth of certain areas before such growth might otherwise have occurred and temporarily restraining the growth of other areas. However, by the end of the study period, growth within the study area under the build and no-build alternatives would be essentially the same.

Related subjects are the issues of induced and latent demand, which are examined in detail in Section 6.4 of the Final EIS. Among other things, the analysis presented in the EIS concludes that the maximum latent demand in the study area is 3.3 percent of the total demand projected for the study period. However, even this figure is an overestimate of the actual latent demand that would be met by the Parkway, because it is based on unrestrained driving conditions and the Parkway would not provide such conditions. This conclusion is based on a separate no-build network that was developed for the Final EIS to verify that travel demand would not change substantially if the project were not built. The WFRC travel demand modeling also generates a numerical estimate of latent travel demand, consistent with the range of estimates existing in literature on latent demand. See specific response to letter 842 in the attached appendix to this Record of Decision regarding the travel demand model. The results of this analysis are provided in detail in Appendix P (2020 Travel Demand Analysis) of the Final EIS.

Comments:

Over 400 reviewers commented on wetland impacts. Reviewers commented that the Great Salt Lake ecosystem is fragile and cannot tolerate any more disturbances or loss of wetlands. Reviewers were

concerned that even though the Final EIS includes mitigation efforts, there is no scientific evidence that wetlands can be replaced.

Response:

The Final EIS describes the many functions and values of the Great Salt Lake ecosystem. It also quantifies the impacts to wetlands of the Legacy Parkway, using the Corps of Engineers HGM system. As addressed in the Final EIS in Section 4.12 and Appendix Q (Response to Comment 135), among other places impacts on the Great Salt Lake ecosystem as a whole are expected to be beneficial from construction of the Legacy Parkway with its mitigation package. The Final EIS evaluates the impacts that the alternatives would have on major wetland functions and concludes that the Parkway could be constructed without major impacts on these functions, especially after mitigation is implemented.

Acquisition of the Legacy Nature Preserve plus the additional 128 hectares (317 acres) of wetlands west of the Parkway will provide long-term preservation to significant areas of the Great Salt Lake wetlands. Within these protected areas, vast wetland acreage will be enhanced and restored. These protected areas will preserve many acres of uplands from future development, which will buffer and enhance remaining wetlands, and also provide diverse habitat for wildlife. Just as significantly, the wetland enhancement provided in the mitigation plan will restore more functional wetland capacity, measured in functional capacity units (FCUs), than the project will impact. Moreover, the Parkway and the Nature Preserve would result in more remaining habitat than the No-Build Alternative by preserving uplands that surround the wetlands. Final terms of the mitigation package will be developed through the Corps of Engineers permit proceeding.

Comments:

About 100 reviewers commented on wetland mitigation. Reviewers were concerned that there was no mechanism to stop the development of the wetlands in the Legacy Nature Preserve in the future and commented that the quality of the Preserve would be degraded by the Legacy Parkway.

Response:

Development in the Legacy Nature Preserve will be prevented because the land will be owned by the State and managed for wildlife. As described in Appendix B3 of the Final EIS, the Corps of Engineers will have oversight over the selection of the Nature Preserve manager and also possibly, the management of the Preserve. As outlined in Appendix B3.3.4, development will not be an option.

The comment is correct to the extent it reflects an opinion that the benefits of the Nature Preserve will be decreased as a result of its proximity to the Parkway. However, by its nature, any mitigation area is likely to abut an unpreserved area which will decrease its functionality. The fringe of these mitigation areas serve as a buffer, protecting the integrity of the center of the mitigation area. As discussed in section 4.12.4 of the Final EIS, the functional credits being credited for the Nature Preserve have been decreased to compensate for this "fringe effect."

Comments:

Over 100 reviewers commented on wildlife habitat and the impact to migrating shorebirds. Reviewers were concerned that the result of building the Legacy Parkway will be that the Great Salt Lake will no longer be a stopover for migrating shorebirds. Reviewers were concerned that the Legacy Parkway could slice through floodplains and threaten birds and other wildlife by isolating wetlands and upland habitat. Some reviewers also believed that the Legacy Parkway would increase roadkill, kill birds, and

crease their numbers.

Response:

As discussed in Section 4.13 of the Final EIS, the construction of the Parkway will not significantly impact the use of Great Salt Lake by migratory birds with the implementation of the Legacy Nature Reserve and wildlife mitigation area. The Parkway will be designed with culverts to keep the floodplain to the east of the Parkway connected with the floodplain to the west. It is true that the Parkway will fragment some wetland and upland complexes making it more difficult for wildlife movement. However, a large portion of the Preferred Alternative is located in existing fragmented habitat near I-15. In addition, the creation of over 607 hectares (1,500 acres) in the Legacy Nature Reserve and wildlife mitigation area, a large, contiguous piece of wildlife habitat, should result in a long-term habitat benefits when compared to the no-build alternative.

CONCLUSION

The FHWA has determined that the Selected Alternative best meets the transportation needs for the North Corridor while maximizing environmental, safety and socio-economic considerations. This decision is based on the Final EIS and the entire project record.

The Legacy Parkway is intended to provide a portion of the transportation facilities needed in the North Corridor to accommodate the safe and efficient movement of people and goods through 2020. It is part of a Shared Solution for transportation needs in the corridor, utilizing expanded transit, TSM, TDM, and improvements to I-15 as well as the additional new lanes provided by the Legacy Parkway. Studies indicate that all of these transportation system elements are needed to help satisfy transportation needs of the year 2020.

Transportation demand projections were conducted by the WFRC using approved transportation demand modeling. The transportation modeling is described fully in the Final EIS, the responses to comments and supporting documentation. The record reflects that absent all of the measures proposed in the Shared Solution, including Legacy Parkway, the LOS for all major roadways, including I-15, will deteriorate to LOS F by 2020.

Based on the modeling, the existing system consisting of I-15, existing arterial roads and current transit service would accommodate approximately 57 percent of the travel demand in 2020. By adding capacity through travel management systems, expanding I-15 to 10 lanes and doubling transit service, an additional 17 percent of the 2020 demand would be met. The Legacy Parkway would meet an additional 16 percent of the 2020 demand. The projections indicate that even by implementing all of the steps of the Shared Solution, the transportation systems currently planned will leave approximately 16 percent of the projected demand unmet.

The North Corridor presents geographical, environmental, and social challenges in developing appropriate solutions for the rapidly growing transportation needs. Currently, I-15 provides the only direct access through highway in the corridor. When incidents occur on I-15, the traffic congestion presents serious safety problems. As an alternate north-south highway, the Legacy Parkway will assist in alleviating these problems.

The No-build Alternative would provide neither the capacity needed to meet the projected 2020 travel demand nor the alternative route needed to mitigate congestion impacts when incidents occur on I-15. The Final EIS also considered whether future demand could be satisfied by a combination demand management strategies, expanded transit, and improvements to I-15, without the added lanes provided by the Legacy Parkway. This combination only provided for 74 percent of the projected 2020 travel demand.

Based upon a balance consideration of the need for safe and efficient transportation; of the social, economic and environmental impacts of the Selected Alternative; and of the national, state and local environmental goals, FHWA has determined that it is in the best overall public interest to proceed with the Legacy Parkway as part of the Shared Solution. The Final EIS discloses that even with aggressive implementation of transit alternatives and management systems, the North Corridor needs the additional traffic lanes that cannot be provided by expanding I-15 alone. Each of the models and predictive tools used to assist transportation planning points to this same conclusion. Expansion of I-15 North in advance of construction of the Legacy Parkway would result in costs to the traveling public of over \$400 million and would also create safety concerns. In light of the demonstrated need for the Legacy Parkway, construction of these additional lanes prior to reconstruction of I-15 North will provide a reliever route for traffic during the future reconstruction of I-15, reducing congestion and offering options for emergency vehicles.

The Final EIS demonstrates that the Selected Alternative alignment for the Legacy Parkway provides additional traffic lanes in an alignment that balances and minimizes the environmental, economic, and social concerns associated with new highway construction.

In reaching our decision, the FHWA has considered all of the issues raised in the record including the information in the Draft and Final EIS. The FHWA consulted with other federal and state agencies, including the Corps of Engineers, USFWS, EPA, and FEMA as well as the Governor of Utah, the Utah Department of Natural Resources and the Utah Department of Environment Quality in developing this project. A full list of interagency coordination is included in the Final EIS.

The FHWA approves the Selected Alternative as the alignment for the Legacy Parkway. The Final EIS and entire record provides complete data showing why the projected transportation needs cannot be met with a combination of aggressive transit enhancements, traffic management systems, and improvements on I-15 alone.

In order to meet the 2020 projected transportation needs, an alternate north-south highway is warranted. In reaching this conclusion, FHWA has determined that the Shared Solution, including the Legacy Parkway, will satisfy a significant portion of the need for safe and efficient transportation in the North Corridor while balancing community, social, and environmental considerations as described in the Final EIS.

The Selected Alternative was developed through a public process that included project adjustments to avoid and minimize environmental impacts. The Selected Alternative that resulted from this process includes significant elements to compensate for unavoidable impacts, in project design,

construction, and off-site mitigation. The Legacy Nature Preserve will provide permanent protection for the Great Salt Lake wetland and wildlife ecosystems.

Date 10/3/00

By David L. Gibbs

David Gibbs
Division Administrator
Federal Highway Administration, Utah Division

LEGACY PARKWAY PROJECT

January 5, 2001

I. FINDINGS AND DECISION

The Department of the Army Permit Application Number 199650197 submitted by the Utah Department of Transportation (UDOT) for the construction and operations and maintenance of the Legacy Parkway has been reviewed and evaluated in accordance with regulations published in 33 CFR 320 through 330 and 40 CFR 230. The full administrative record relevant to the application has been considered, including:

- Draft Environmental Impact Statement (DEIS) September 1998, Appendices to the DEIS,
- Comments received on the DEIS (including those received during the October 28, 1998 public hearing).
- Final Environmental Impact Statement (FEIS) (including the responses to comments on the DEIS including those received at the October 28, 1998 public hearing),
- Appendices to the FEIS,
- Comments received on the FEIS during the 30 day no action period following the publication of the FEIS Notice of Availability in the Federal Register,
- Responses to the comments on the FEIS,
- Comments received during the public review of the Notice of Availability for the 404 application for the Legacy Parkway project (including those received during the August 23, 2000 public hearing),

The *Legacy Parkway Final Environmental Impact Statement (EIS) and Section 4(f), 6(f) Evaluation* was prepared by the Federal Highway Administration (FHWA), UDOT and the U.S. Army Corps of Engineers (COE), and was released for public review in July 2000.

UDOT has applied for authorization to fill approximately 114 acres of jurisdictional wetlands in Salt Lake and Davis counties to construct the Legacy Parkway, identified as the Preferred Alternative (P.A) in the FEIS. The project purpose is to accommodate a portion of the projected transportation demand over the next twenty years, to 2020. The Legacy Parkway is part of a shared transportation solution, which includes multiple transportation improvements. Projections of travel demand over the study period (1995-2020) indicate that the North Corridor will need a range of transportation solutions to meet the projected demand including enhanced transit, additional highway lanes, and travel management systems. The Legacy Parkway will provide a portion of the transportation facilities needed in the North Corridor to accommodate the safe and efficient movement of people and goods through 2020. The regional planning process and the EIS process developed a shared solution to meet future transportation demand, combining the Legacy Parkway, I-15 North improvements, expanded transit, intelligent transportation systems (ITS), travel demand management (TDM), and transportation systems management (TMS).

Response:

Comment acknowledged. The mitigation has been made a condition of the 404 permit.

Comment:

The Service believes that the Great Salt Lake ecosystem is an irreplaceable and unmitigatable resource due to its location, size and ecological features. It is a vital staging area in an otherwise arid region for migratory birds.

Response:

Comment acknowledged. The importance of the Great Salt Lake is recognized in the FEIS. However, while there are uncertainties in mitigating wetland functions, it is possible to closely mimic the biotic and abiotic characteristics of various wetland types.

Comment:

The COE decision on the 404 permit should not rely on the results of the existing HGM model, which lacks model validation and wildlife assessment. The final decision must be based on professional judgement in coordination with the resource agencies and affected interests.

Response:

The COE has used many factors in coming to its decision on the 404 permit, the HGM model being one of those factors. A technical team whose members have considerable experience and expertise in HGM development has developed the HGM models. The models rely on reference standard wetlands within the study area and are based on real data collected in the field. The models have been tested for sensitivity and have been calibrated to existing field conditions. We continue to believe that HGM provides useful information to evaluate wetland functions.

Comment:

Should the proposed mitigation lands become unavailable to UDOT prior to construction of Legacy Parkway, discussions with our office should be reopened to determine appropriate strategies to ensure full wetland and wildlife compensation. Adequate mitigation is the proposed 1,568 acres purchased and protected in perpetuity, mitigation not meeting this target should be considered inadequate. Purchase of all mitigation parcels should be complete prior to construction of Legacy Parkway, and must be complete prior to opening for public use.

Response

The proposed mitigation has been made a condition of the 404 permit. Purchase of mitigation land (which is now 2,098 acres) will be done concurrently with the acquisition of other project land. Future coordination will occur if we believe the permit needs to be reopened.

Comment:

Need assurance that all mitigation parcels are protected in perpetuity from further disturbances, development and or condemnation proceedings. If held in public ownership as a wildlife or waterfowl refuge, the FHWA needs to complete section 4(f) responsibilities under the DOT act of 1966.

Response:

With respect to the protection in perpetuity of all mitigation properties, see the discussion above. Section 4(f) compliance is the responsibility of the FHWA.

Comment:

Provisions in previous comments should be incorporated into the provisions of the 404 permit decision to ensure adequate mitigation.

Response:

Conditions pertaining to mitigation have been included in the 404 permit.

DIVISION OF ENVIRONMENTAL RESPONSE AND REMEDIATION

Comment:

Construction may impact the following known hazardous waste sites; Phillips Lovejoy Landfill; Bountiful City Landfill; Northwest Oil Drain; Portland Cement Site #5; Salt Lake Gun Club. If constructed by UDOT then they must evaluate all impacts, including access and groundwater that construction may have on hazardous waste sites.

Response:

Comment noted. The 404 permit has been conditioned to commit UDOT to working with the Division regarding these issues. Potential impacts to hazardous waste sites are addressed in Section 4.17 of the FEIS.

Comment:

The Division of Environmental Response and Remediation requests that it be notified of any and all hazardous wastes concerns encountered during the design and construction.

Response:

Comment noted. The 404 permit has been conditioned so that the design-builder is required to contact the Division regarding any hazardous waste concerns encountered during construction.

9. CONDITIONS

SPECIAL CONDITIONS

The following conditions, related monitoring, and BMPs, will be included and made part of the permit. The conditions are grouped by resource category.

a) Jurisdictional Wetlands and Other Waters of the United States – Wetland Mitigation

- 1-1 The Wetland Mitigation Plan, as presented in Appendix B3 of the Final Environmental Impact Statement, will be finalized and implemented in its entirety as the means of mitigating the loss of wetlands and other waters of the United States from the Legacy Parkway highway project (Proposed Project). Finalization of the Wetland Mitigation Plan shall include, but not limited to, identification and discussion of roads to remain and those removed, location of fences, water control structures, ditches to be backfilled and drains to be plugged, etc. The final Wetland Mitigation Plan shall be submitted to the COE for approval. The Wetland Mitigation Plan shall also include a plan to control noxious and/or invasive plants.

To mitigate for lost Slope Wetland wildlife functions (FCU 5), a minimum of two (2) shallow groundwater wells shall be drilled on that part of the Mitigation Lands known as the "Legacy Nature Preserve". Should the wells prove unfeasible, the permittee shall propose some other means to replace this function. This will be part of the final Wetland Mitigation Plan.

To mitigate for lost aquatic habitat at the Bountiful Pond, the permittee shall replace an equal amount of area contiguous with the pond. This will be part of the final Wetland Mitigation Plan.

1-2 Wetland mitigation will also include the acquisition of approximately 1,251 acres of land, identified in the FEIS as the Legacy Nature Preserve, and the additional 317 acres known as the Special Wildlife Area. In addition, UDOT will acquire approximately 530 acres of land referred to as the Golf Course, Stair Step, Centerville and Thalman properties (collectively referred to as "Mitigation Lands."). Total Mitigation Lands shall be 2,098 acres.

UDOT will record a Covenant and Use Restriction (Restrictions) with the Recorder of Deeds for all Mitigation Lands. The Restrictions to be placed on the Mitigation Lands are as follows:

- 1) Management and maintenance of the mitigation site, known as the "Mitigation Lands", shall conform to the approved Wetland Mitigation Plan for Department of the Army Permit No. 199650197;
- 2) No discharge of dredged or fill material or excavation in the Mitigation Lands shall be allowed, including the construction of buildings, trails or other structures, unless authorization is first obtained from the COE. The exception will be the 80 acres within that property known as the "Legacy Nature Preserve" (LNP), as discussed below, that may be used for public education and information;
- 3) No animals, including livestock and/or pets are allowed;
- 4) No mowing, burning, spraying or other alteration of vegetation is allowed unless necessary for safety reasons or to control noxious and/or invasive plants. If revegetation is necessary, only plants native to Utah and the Great Basin may be used;
- 5) Vehicular access, other than what is necessary for operation and maintenance of the Mitigation Lands, is prohibited. This includes OHV's, mountain bikes, etc.;
- 6) Hunting on all Mitigation Lands is prohibited;
- 7) Public access, except on the 80 acres discussed below, is prohibited without the approval of the COE;
- 8) Hydrologic modification of wetlands within the Mitigation Lands, except as described in the Wetland Mitigation Plan, is prohibited. This includes modifying existing wetland types through diking, damming, dredging or other such means;

- 9) These covenants and restrictions are to run with the land and shall be binding on all successors and assigns of the owner;
 - 10) These covenants and restrictions may not be vacated, removed, modified, amended or altered without written consent of the COE
- 1-3 The permittee shall survey and record the mitigation properties with the County Recorder. The survey shall contain a legal description of the mitigation properties and deed restrictions identifying the properties as wetland mitigation sites in perpetuity. A copy of the attached record of conditions, covenants, and restrictions shall be recorded with the County Recorder and a copy of the recordation will be provided to the Utah Regulatory Office within ninety (90) days of the acquisition of each mitigation property.
 - 1-4 Recognizing the value of the Mitigation Lands to the perpetuation of important wetland functions, and the public's interest in viewing and enjoying this resource, the COE will allow a maximum of eighty (80) acres of the Legacy Nature Preserve (LNP) to be set aside for public information and education. The precise location of this set-aside shall be coordinated with the COE so that the 80 acres does not compromise the integrity of the overall wetland functions of the LNP. Trails, kiosks signage and observation decks/towers may be a part of the 80 acre site. The location of all such amenities shall be coordinated approved by the COE.

Should the UDOT choose to develop such a site, a separate operational/management plan governing the 80 acres shall be prepared and approved by the COE. The 80 acres will be surveyed and recorded separate from the remainder of the Mitigation Lands and identified as a public use area with the same suite of deed restrictions as discussed above. The exception is to allow the placement of trails and structures such as kiosks and observation towers, and to allow for some vegetative control and alteration as identified in COE approved operational/management plan.

- 1-5 For those portions of the Mitigation Lands that were not included in the Wetland Mitigation Plan identified in paragraph 1-1, above, UDOT will submit a proposal for wetland restoration/enhancement to the COE within ninety (90) days of issuance of the Permit. Upon review and approval by the COE, UDOT will meet all terms provided in the approved plan for those Mitigation Lands.

- 1-6 The permittee shall initiate implementation of the Wetland Mitigation Plan before or concurrent with the construction activities of the Legacy Parkway Project. Within 60 calendar days after the completion of the required mitigation, the permittee will provide the COE with an as-built survey of the mitigation site.
- 1-7 The permittee shall submit an annual report by December 31 during the implementation of Phase I and for five years following completion of Phase I of the mitigation plan. It will present the findings of the mitigation site monitoring to assist in the tracking of the success of mitigation efforts. After completion of five years of monitoring, the COE will evaluate, on a periodic basis, the frequency of the future monitoring and reporting for Phase II of the mitigation plan.

If the sampling and monitoring indicate a frequent need for management changes, the frequency of monitoring and reporting will be greater. If the sampling and monitoring indicate successful mitigation of the mitigation areas, then the frequency of monitoring and reporting may be reduced. Monitoring and reporting is planned for the first five years unless the COE determines after that time period that additional activities are required to determine the success of the mitigation. Annual costs of managing and maintaining the mitigation properties will be documented the first five years to help determine the amount of endowment needed to provide for the long-term operation and maintenance of the mitigation properties. Phase III of the mitigation plan is the long-term maintenance and management of the mitigation properties.

- 1-8 The permittee shall provide for a long-term financial package to support monitoring and reporting activities of the mitigation properties (avian species, plant communities, water chemistry, hydrology, and photo documentation) as long as required by the COE.

The permittee shall also provide for a long-term financial package to support management and maintenance of the mitigation properties so that wetland functions are maintained in perpetuity.

In the event that the permittee proposes to transfer responsibility for the Mitigation Lands or any part thereof, the permittee will advise the COE no later than ninety (90) days in advance of the transfer. With the notification, the permittee will provide the COE with adequate assurances that the Mitigation Lands will be maintained and supported to preserve the mitigation objectives required by this Permit. The permittee may transfer responsibility for the Mitigation Lands or any part thereof only with the approval of the COE.

1-9 Mitigation Plan Implementation

Phase I – Land acquisition; install perimeter fence, gates, and signs; remove livestock; remove trash, debris, illegal fills, etc; remove interior fences; remove structures (shed, buildings, corrals, etc.); install water control structures, install low berm, minimally modify the main southern channel; minimally modify the abandoned distributary channels in the northern area of the Jordan River floodplain; excavate channel to the Jordan River; remove unnecessary roads; fill in unnecessary ditches; characterize water quality of all water to be used in the hydrologic restoration/enhancement of the Jordan River floodplain (see section 4-3 below); develop and implement a plan to manage all external water entering the Jordan River floodplain; and continue baseline monitoring. One-third of the Phase I activities shall be completed each year for three years beginning with the issuance of the permit. Documentation of the incremental completion of the Phase I activities shall be submitted to the COE annually (see General Condition G-1, below). Construction progress of the Parkway shall be contingent upon meeting the annual Phase I goals. In addition, all mitigation property will be acquired except for parcels in condemnation, prior to opening any segment of the Legacy Parkway to traffic.

Phase II – Adaptive management and monitoring will begin the first year following the completion of Phase I and will last for at least five years or until the mitigation properties are fully functional.

Phase III – Long-term operation and maintenance of the mitigation properties either directly by UDOT or through a qualified third party will begin after the completion of Phase II and will continue in perpetuity.

1-10 Mitigation success –

1) Jordan River floodplain, northern portion (mini-Great Salt Lake):

Each wetland HGM Class (Depression and Lacustrine) shall be stratified into similar subclasses, e.g., unvegetated mudflat, mudflat/pickleweed, saltgrass dominated, pickleweed dominated, etc., and a biological profile developed for each subclass. This profile will characterize and quantify the plant communities in terms of species richness, species abundance, cover and percent bare-ground.

Because one of the objectives of the mitigation is to maintain the habitat characteristics of the various subclasses as described above, a Measure of Similarity, such as the Sorenson Measure of Similarity³ (quantitative data) shall be used to monitor changes within each of the HGM wetland subclasses. Either the existing baseline habitats (subclasses) of the mitigation site or reference standard wetlands of the same HGM subclass shall be used as the communities for comparison. The Sorenson Measure of Similarity rates habitat similarity on a scale of 0 (no similarity) to 1 (high similarity) and will be used as the success criterion. A Similarity Index of 0.75 will determine success. For example, a pickleweed dominated mudflat subclass within the Depression HGM Class, will be at least 75 percent similar to its control.

Another objective of the mitigation is to maintain the relative diversity of habitats types (wetland subclasses). Success will be determined by maintaining within +/- 25 percent, as determined by area, the various HGM subclasses as described above. This allows flexibility in an adaptive management strategy to work with natural plant successional changes.

Mitigation activities in this region will focus on restoring/enhancing the degraded wetlands and managing them in perpetuity for a continuing diversity of habitats that provide foraging, resting, and nesting areas for the range of species that will be displaced by Legacy Parkway. The hydrology of the floodplain will be improved by providing a permanently controlled water delivery system. The goal of this hydrologic enhancement will be to increase species diversity and populations while maintaining existing habitat diversity.

- 2) For the mini-Jordan portion of the Jordan River floodplain (southern portion), it will consist of providing a reliable year round water flow and constructing the water control structures committed to in the FEIS and allowing a natural occurring plant community to evolve into a diverse habitat.
- 3) LNP Upper Playas, Special Wildlife Area, Centerville, Golf Course, Stair Step and Thalman properties:

Magurran, Anne E. Ecological diversity and its measurement. New Jersey: Princeton University Press, 1988.

Preserve habitats in a natural condition by maintaining fences, controlling trespass, controlling noxious and/or invasive plants, removing unnecessary roads, plugging/removing unused ditches, removing trash, debris, illegal fills, structures, grazing, etc., as described in Section 7 above.

1-11 In order to restore and enhance aquatic habitats on the Jordan River mitigation site and to maintain the mitigation properties in perpetuity, the permittee shall construct and maintain a water management system consisting of water diversion structures, ditches, berm, control gates, etc. to manage the mitigation site hydrology. Excavation may be required to hydrologically link some depressional areas and to allow continuous free flow conditions on the north (mini-Great Salt Lake) and south portions (mini-Jordan) of the Jordan River floodplain. The permittee shall submit to the COE all general arrangements, contract sections, contractor's storm water prevention plan, and hydrologic designs for review, comment, and approval prior to start of construction of the mitigation effort.

1-12 The permittee shall permanently guarantee all necessary water rights to maintain the hydrology necessary to provide and maintain the wetland functions. Documentation that sufficient water has been secured shall be submitted to the COE.

b) Jurisdictional Waters and Other Waters of the United States – Other Waters of the US

2-1 Mitigation of Other Waters of the United States will be implemented as identified in Table 4-40 of the FEIS for Water Bodies and Wildlife Surface Water and Wildlife.

2-2 This mitigation consists of the restoration of approximately 7,750 feet of stream channel within the Legacy Nature Preserve as described above. Mitigation also includes construction of natural substrate culverts along perennial streams and other large drainages requiring 48 inch diameter culverts or larger to facilitate movement of fish, amphibians, and small mammals.

c) Vegetation on Mitigation Properties

3-1 The permittee shall employ BMPs during mitigation construction activities to facilitate revegetation efforts by reducing the amount of surface disturbance and erosion. The permittee shall include a list and description of BMPs in the design and construction specifications for the mitigation properties. The BMP's will be reviewed and approved by the COE.

- 3-2 The COE its option will inspect construction activities on the mitigation properties and following construction to determine if BMP's have been employed effectively.

d) Vegetation, Avian, Hydrologic, and Water Quality Monitoring

- 4-1 The permittee shall conduct monitoring studies of vegetation and avian surveys in accordance with the conditions described above. The avian monitoring shall continue as it has been done since 1999 via a mixture of walking and point counts. Species richness and abundance shall be determined and documented. The vegetation monitoring shall also continue as it has since 1999 along the six original transects and as described in paragraph B3.3.4.4 of Appendix B3 to the FEIS. Similarly, plant species richness and abundance will be determined and documented.
- 4-2 The permittee shall also conduct water level and flow monitoring to assist in the hydrologic management of the Jordan River floodplain.
- 4-3 The permittee shall also conduct an analysis of water quality on all waters to be used for the hydrologic restoration/enhancement of the Jordan River floodplain. At a minimum, water quality shall meet standards established by the Utah State Division of Water Quality for Class 3D waters: Protected for waterfowl, shorebirds and other water-oriented wildlife (R317-2, Utah Administrative Code). A report characterizing the water quality shall be submitted to the COE at the beginning of Phase I.

e) UPDES Permit

- 5-1 The State of Utah, Division of Water Quality (UDWQ), Department of Environmental Quality requires that discharges from the facility be regulated under a Utah Pollutant Discharge Elimination System (UPDES) permit. The design-build contractor will be required to obtain the permit authorizing the discharge of storm water from construction activities prior to the initiation of construction.

A Storm Water Pollution Prevention Plan is required to identify potential sources of pollution, including sediments, and to provide sediment and erosion controls and storm water management practices that will prevent pollution. Failure of the permittee to comply with all requirements, conditions, and management practices and Storm Water Pollution Prevention Plans required by the above referenced UDWQ Storm Water Discharge Permit may result in the modification, suspension, or revocation of the COE 404 permit.

- 5-2 As identified in 4.10.2 of the FEIS, no UPDES permit for operational discharge is anticipated because of the use of equalization culverts that keep storm water discharge less than 5 cfs. However, should the design-build contractor decide to modify the design of storm water discharge so that an UPDES permit is required, then the contractor will be responsible for obtaining the permit and conducting any required coordination.

f) Section 401 Water Quality Certification

- 6-1 The permittee has received and agree to comply with the provisions of the Section 401 Water Quality Certification granted by the State of UDWQ on December 15, 2000, State I.D.U.T. 000718-010.
- 6-2 The Permittee shall implement the water quality mitigation identified in Table 4-40 of the FEIS. Specifically these measures include the planting of vegetation filter strips on all cleared areas of the ROW and constructing equalization culverts.
- 6-3 Failure of the permittee to follow these provisions may result in the modification, suspension, or revocation of the COE 404 permit.

g) Hazardous Substances

- 7-1 The permittee will coordinate with the State of Utah Division of Response and Remediation concerning construction that could impact the known hazardous wastes sites identified in Section 4.17.3 of the FEIS.

h) Threatened and Endangered Species

- 8-1 The U.S. Fish and Wildlife Service, as a result of consultation under Section 7 of the Endangered Species Act, has issued a Biological Opinion addressing the bald eagle. The Service's B.O. is contained in Appendix D of the FEIS. The B.O. concluded that the proposed action will likely adversely affect the bald eagle, but not likely to jeopardize the continued existence of the species. The peregrine falcon had been part of that opinion but has been de-listed by the Service. In its B.O. the Service has recommended Reasonable and Prudent Measures as they pertain to the bald eagle. UDOT must comply with the terms and conditions of the B.O.

i) Wildlife

- 9-1 The permittee shall follow the protection and notification procedures for the peregrine falcon that are detailed in Table 4-40 of the FEIS.

- 9-2 The permittee shall conduct preconstruction raptor studies to identify active nests. If nests are determined to be active, coordination with the USFWS and the UDWR will occur and appropriate actions will be taken pursuant to the Migratory Bird Treaty Act and the USFWS Raptor Guidelines to ensure the least amount of impact to the species.
- 9-3 The permittee shall acquire and manage the 317 acres of mitigation property agreed to in discussions with the USFWS and identified in Table 4-40 of the FEIS. This area will be managed in the same manner as identified in permit condition 1-9 and 1-10, 3) above.
- 9-4 Failure of the permittee to follow these provisions may result in the modification, suspension, or revocation of the COE 404 permit.

j) Floodplain

- 10-1 The permittee shall construct major drainage structures to pass the 100-year flood without changing the FEMA floodway.
- 10-2 The permittee shall construct equalization culverts or an equivalent to allow floodwater to pass back and forth beneath the Parkway.

k) Cultural/Historic Resources

- 11-1 The Legacy parkway will impact one historic property and two archaeological sites that are eligible for the National Register of Historic Places. The FHWA, as the lead federal agency, is responsible for assuring compliance with Section 106 of the Historic Preservation Act.

In order to mitigate the impact of the project on the three resources, the permittee will conduct recordation and data recovery activities as stipulated in the Memorandum of Agreement among the FHWA, UDOT, SHPO, and the ACHP that is included in the FEIS as Appendix O.

l) Air Quality

- 12-1 The State UDEQ, Division of Air Quality must grant the permittee an approval order to control and mitigate air emissions related to construction and operation of the Parkway. The permittee shall submit a summary of the status of compliance with the UDEQ Approval Order in its annual status report to the COE.

12-2 Failure of the permittee to follow these provisions may result in the modification, suspension, or revocation of the COE 404 permit.

m) Visual

13-1 The permittee will implement the visual impact plantings that are identified in Table 4-40 of the FEIS.

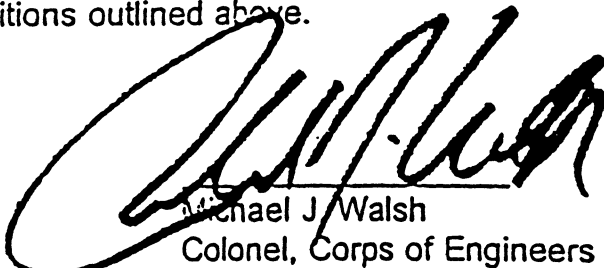
ADDITIONAL CONDITIONS

- A-1 In order to ensure that all permit conditions are implemented, an annual report shall be prepared by the permittee, submitted to the COE Utah Regulatory Office, and due at the end of the first year following the permit issuance for review and approval. The report shall present a detailed discussion of the status of compliance with each of the permit conditions.
- A-2 In order to ensure that all special conditions and appropriate mitigation measures have been incorporated into construction specifications and mitigation plans prior to the start of construction, UDOT will provide to the COE written verification that these measures have been incorporated into construction specifications and its contractors have agreed to abide by them.
- A-3 The permittee shall allow authorized COE representatives to inspect facilities or activities, including monitoring and control equipment and practices required under this permit as well as those necessary for assuring permit compliance.
- A-4 The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for permit modification, suspension, or revocation. The permittee shall give advance notice to the COE of any planned changes in the permitted activity that may result in noncompliance of the permit requirement.
- A-5 All Committed Mitigation and Monitoring, described in Section 7 above, shall be performed in its entirety.
- A-6 Any action not specified in the Wetland Mitigation Plan is prohibited unless approved by the COE.
- A-7 The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for permit modification, suspension or revocation. The permittee shall give advance notice to the COE of any planned changes in the permitted activity, which may result in noncompliance of permit requirements.

PERMIT DECISION

I am issuing the permit No. 199650197 for the Legacy Parkway PA and its attendant facilities as described in the FEIS and subject to the conditions outlined above. The Project is not contrary to the Public Interest and complies with EPA's 404(b)(1) Guidelines subject to the conditions outlined above.

9 JAN 01
Date



Michael J. Walsh
Colonel, Corps of Engineers
District Engineer
Sacramento District
U.S. Army Corps of Engineers

MITIGATION

The following mitigation will be undertaken to reduce or eliminate impacts. The below mitigation measures are described in more detail and are incorporated by reference from the FEIS with the addition of 283 acres of wetlands that was added after release of the FEIS in consultation with the EPA. Many of these mitigation measures below have been incorporated into the project features and/or incorporated into the FHWA Record-of-Decision, the UDEQ 401 Water Quality Certification, and the COE public interest determination, 404(b)(1) Evaluation, Record-of-Decision, and 404 Permit for the Legacy Parkway.

Wetlands

Approximately 2,100 acres of land will be acquired as mitigation for wetland impacts. Included in this total are 776 acres of jurisdictional wetland. The mitigation includes the following properties:

- Original Legacy Nature Preserve identified in the FEIS (1,251 acres),
- Special Wildlife Area described in the response to comments on the FEIS, added to address concerns about indirect impact to wildlife (317 acres), and
- Additional mitigation areas known as the Golf Course, Centerville, Thalman, and Stair Step properties, added to address concerns raised by the EPA to the COE over sufficiency of the proposed mitigation (70 acres, 102 acres, 211 acres, and 147 acres respectively; total 530 acres, including 283 acres of wetlands).
- The table below identifies the total amount of acres that will be acquired as well as the amount of wetland acres that will be included in the acquisition for each mitigation property included in the Legacy Parkway Mitigation Plan.

Mitigation Area	Total Areas	Wetland Acres
Legacy Nature Preserve	1,251	332
Special Wildlife Area	317	161
Centerville	102	76
Golf Course	70	15
Stair Step	147	88
Thalman	211	104
Total	2,098	766

Chart below identifies the amount of HGM wetland function gained for each of the properties that constitute the Legacy Parkway Mitigation Plan. As noted on the chart, mitigation credit is being given for only 50% of the FCUs attributable to preservation. As appropriate, all mitigation credits have been reduced to account for the adverse impact that the close proximity of the Parkway will have on the mitigation benefits.

MITIGATION	ENHANCE RESTORE WETLAND FCUs	PRESERVATION WETLAND FCUs 100%/50% ¹	Highway Influence Deductions	Net Mitigation FCU Credits
Legacy Nature Preserve ²	418	117/89	(0)	507
	176	190/95	(70)	201
Special Wildlife Area	176	98/49	(2)	186
Centerville	82	40/20	(46)	56
Golf Course	14	18/9	(7)	16
Stair Step	66	21/12	(21)	57
Thalman	61	148/74	(71)	64
Total	956	695/348	(217)	1087

The restoration/enhancement actions implemented on all the properties will improve existing wetland functions. Activities, surveys, and annual reports on the mitigation property will occur during the first five years following restoration of the floodplain to determine success. The following actions will be common to all mitigation properties:

- Selectively fence and maintain the perimeter of all mitigation properties where necessary to control trespass. The fencing plan will be part of the Mitigation Plan and approved by the COE,
- Remove livestock from all properties,
- Remove trash, debris, illegal fills, buildings and structures from all properties. Should it be desired to keep some buildings or structures because of their cultural, historical or intrinsic significance, concurrence from the COE will be obtained for their retention,
- Remove designated roads not needed for maintenance and contour the disturbed area to the surrounding topography in all properties. Roads identified for removal will be part of the Mitigation Plan and approved by the COE,
- Fill in designated ditches and contour them to the surrounding topography in all properties, and
- Develop and implement a noxious and/or invasive plant control plan,

¹Credit is being given for 50% of the actual preservation FCUs, which is lower figure shown.

²The mitigation figures within the Legacy Nature Preserve are identified separately for the areas within the Jordan River floodplain (top number) and those within the upper playa categories (lower number).

- Install water control structures in the old channel, southern floodplain,
- Install a low berm and water control structure(s) across the northern end of the Jordan River floodplain,
- Minimally modify the old channel in the southern end of the floodplain to ensure flow through to the Jordan River and to reconnect an old meander to create an island,
- Minimally modify the abandoned distributary channels in the northern end of the floodplain to facilitate spring inundation of depressional wetlands and playas,
- Provide a hydrologic connection between the Jordan River and the old channel in the southern end of the floodplain. This may involve excavation, culverting or other appropriate means.

The mitigation objectives for the Jordan River Floodplain, northern region are to maintain similar habitat diversities as are currently represented by the following HGM wetland classes:

1. Depression
2. Lacustrine

These habitat diversities include:

- Unvegetated mudflat/pickleweed covered mudflat,
- Saltgrass/baltic rush, and
- Emergent vegetation

Maintaining these habitats within a range of +/- 25 percent, as determined by area, will provide foraging, resting, and nesting areas for the range of species displaced by the Parkway. Success criteria for achieving this objective are described below in more detail in Section 9.

- The hydrology of the Jordan River floodplain will be restored/enhanced by providing a permanently controlled water delivery system.
- The upper playas of the LNP and the northern properties, including the Special Wildlife Area (317) acres, Centerville (102 acres), Golf Course (70 acres), Stair Step (147 acres) and Thalman (211 acres) properties, will be restored/enhanced and maintained in a natural condition.

Success will be determined by implementation of restoration/enhancements and routine maintenance and regular inspection as described above to insure:

- Maintenance of fences,
- Control trespass,
- Control noxious and/or invasive plants
- Removal of unnecessary roads
- Plugging/removing unused ditches
- Removal of trash, debris, illegal fills, structures, grazing, etc.

- Access to the southern entrance of the Farmington Bay Waterfowl Management Area and to the Bountiful Pond will be maintained by a frontage road and by a non-motorized overpass at Pages Lane.
- Mitigation of the Bountiful Pond will be accomplished by replacing the aquatic habitats impacted by enlarging the pond to compensate for the lost habitat. Additional mitigation for the pond and the Jordan River Raceway will be accomplished by replacing the land that is taken for the project. The facility owners have already agreed to the replacement lands.
- Success will be measured by the implementation of the agreed to mitigation.

Water Quality

- Discharges from the Parkway will be minimized by not constructing curbs to allow for sheet flow from the roadway. Flows from overpasses will be directed to vegetation strips within the ROW and will not be discharged directly to adjacent wetlands.
- All non-paved areas within the ROW will be vegetated as a means to scrub suspended particles, metals, oils, and greases from runoff leaving the Parkway.
- Equalization culverts or an equivalent will be placed under the Parkway to capture runoff from the upstream side of the roadway and discharge it to the downstream side in a manner to maintain sheet flow characteristics. Culverts will be placed in a manner that limits discharges to less than 5 cfs. It is estimated that culverts would be placed approximately every 500 feet.
- Scour and erosion protection would be provided in those instances where velocities would cause downstream erosion.
- Success will be measured by the implementation of the agreed to mitigation described in the FEIS.

Wildlife

- The Special Wildlife Area, consisting of 317 acres of land, will be acquired to mitigate specifically for indirect impacts to wildlife.
- The management of all mitigation lands will be to benefit the wildlife species impacted by the Parkway.
- The perimeters of all mitigation land will be selectively-fenced to prevent human conflict with wildlife.

retain the natural substrate to facilitate the movement of fish, amphibians, and small mammals.

- Preconstruction surveys for raptors will be made of the project area. If any active nests are found, then coordination will take place with Utah Department of Wildlife Resources (UDWR) and the USFWS to minimize impacts to the species.
- Monitoring of the peregrine falcon aerie shall be conducted by a qualified wildlife biologist for any activities occurring within one mile of the peregrine falcon aerie from the courtship through post-fledgling dependency periods (approximately a 126-day period from February 1 through August 31).
- If, during monitoring, the peregrine falcons appear disturbed in any manner, construction activities shall immediately cease and UDOT shall immediately consult with the USFWS prior to continuing construction activities. .
- Project employees will be informed of the presence of nesting peregrine falcons and the need to minimize disturbance of nesting activities.
- No recreational trail facilities that encourage extended human use of the area (e.g., picnic tables and rest areas) shall be constructed within one mile of the peregrine falcon nest and roost sites.
- The criteria for success for wildlife populations and species are identified in the wetland's mitigation section. Success for the other wildlife mitigation will occur when the mitigation has been implemented.

Floodplain (FEMA)

- The equalization culverts or an equivalent described above will allow floodwater to pass back and forth beneath the roadway. This will maintain floodplain functions.
- Major drainage structures will be designed to pass the 100-year flood without overtopping the road or altering the floodplain.
- Success will occur when the structures have been constructed as committed to in the FEIS.

Threatened and Endangered Species

- The U.S. Fish and Wildlife Service, as a result of consultation under Section 7 of the Endangered Species Act, have issued a Biological Opinion addressing the bald eagle. The Service's B.O. is contained in Appendix D of the FEIS. The B.O. concluded that the proposed action will likely adversely affect the bald eagle, but not likely to

of that opinion but has been advised by the Service. In its D.O. the Service has recommended the following Reasonable and Prudent Measures as they pertain to the bald eagle:

No construction activities will occur from the courtship through incubation/brood rearing periods (approximately January 1 through May 21) within one mile of the bald eagle nest.

During the nestling through post-fledging dependency periods (approximately May 21 through August 31), the one-mile buffer may be relaxed to one-half mile for some activities. Coordination with and concurrence from the Service must occur prior to any activities occurring under this term/condition.

UDOT shall require continuous monitoring of the bald eagle nest by a qualified wildlife biologist for any activities occurring within one-mile of the bald eagle nest (as per the previous term/condition).

If, during the monitoring (as per the previous term/condition), the bald eagles appear disturbed in any manner, construction activities shall immediately cease and the UDOT shall immediately follow the reporting requirements issued in the biological opinion. Consultation with the Service is required prior to continuing construction activities.

No construction activities will occur from November 1 through March 31 within one-half mile of the bald eagle winter roosting sites.

- Project employees shall be informed of the presence of the bald eagle and the need to minimize disturbance during nesting and wintering periods
- No recreational trail facilities that encourage extended human use of the area (e.g., picnic tables and rest areas) shall be constructed within one mile of bald eagle nest and roost sites.

Right-of-way fencing will be constructed and maintained along the length of the highway to deter human use of the proposed Legacy Nature Preserve.

Historic and Archeological Resources

The Federal Highway Administration, as the lead federal agency, is responsible for all Section 106 activities that will include:

- An Intensive Level Survey Form will be completed prior to demolition of the historic property.

approved MOA. See Appendix O – Section 106 Memorandum of Agreement for more details.

- All activities will be coordinated with the Utah State Historic Preservation Office and the Advisory Council on Historic Preservation.
- Success will occur when the historic property has been recorded and the archeological data recovered in compliance with the Memorandum of Agreement prior to construction in that area.

Hazardous and Toxic Wastes

- Measures will be implemented to prevent the spread of contamination.
- The site remedy of known hazards will be coordinated with UDEQ and EPA.
- Should unknown contamination be discovered or occurs during construction, construction shall cease until appropriate response measures have been taken.
- The Northwest Oil Drain will be mitigated by avoidance through bridging. The Bountiful sanitary landfill will be mitigated by relocating the impacted facilities and removing landfill wastes and disposing them at an approved facility or bridging the site.
- Success will be determined through consultation with UDEQ if any contaminated sites are found that require remediation. Any spills during construction would be cleaned-up and reported to UDEQ for inspection of the area.

Visual Resources

- Revegetation of the Parkway ROW will soften visual impacts and blend it into the existing landscape. Native vegetation will be used where possible
- The landscaping will vary according to the adjacent land use. Adjacent to I-15, grasses will be used. In open and commercial areas, moderate tree and shrub plantings will be done. In residential areas, berms and shrub plantings will be used.
- Success will be measured by the implementation of the mitigation after construction, as described in the FEIS.

Construction

- Best Management Practices (BMPs) will be followed to prevent air and water quality impacts, to minimize wetland and wildlife impacts, and to minimize hazardous and toxic waste spills

- During the Design build phase, steps shall be taken to minimize impacts to wetlands within the ROW. The Environmental Team and Wetland Specialist, listed in the RFP, shall monitor progress of impact minimization. Documentation to this effect shall be submitted to the COE on a quarterly basis.
- A public information program, including signs to alert motorists, will be implemented to keep the public informed of construction activities.
- Lights used for any nighttime construction will be aimed directly at the construction site and/or shielded from nearby residences.
- Success will be monitored by the UDEQ agencies responsible for regulatory oversight of air, water quality, and hazardous waste spill impacts in accordance with approval permits or regulatory requirements. UDOT will monitor the design builder to ensure appropriate signs and lights are used during construction. Public complaints regarding construction will be addressed.

MONITORING

- Baseline surveys for plants and avifauna will continue until implementation of the mitigation plan is completed. Surveys will be accomplished using the same methods and following the same schedule established in the February 1999-March 2000 studies.
- Post-implementation biological surveys will continue for five years after the enhancements, committed to in the FEIS and the 404 permit, have been completed. Surveys will be accomplished using the same methods and following the same schedule as the baseline studies.
- A dominant vegetation map for the Jordan River Floodplain within the LNP will be produced from annual aerial photographs taken in July beginning in year 2000 and continuing through five years post-implementation.

REPORTING

- Reports on the status of completing the implementation of the mitigation plan, including the acquisition of all mitigation properties, will be prepared annually until implementation is complete and submitted to the COE, EPA, USFWS, and UDWR.
- Annual reports on the avian and vegetation surveys will be submitted to the COE, EPA, USFWS, and UDWR for the first five years following implementation of restoration of the Jordan River Floodplain. The COE will determine at the end of the five years if additional monitoring or reports are required.

Mitigation

- 1-1 The Wetland Mitigation Plan, as presented in Appendix B3 of the Final Environmental Impact Statement, will be finalized and implemented in its entirety as the means of mitigating the loss of wetlands and other waters of the United States from the Legacy Parkway highway project (Proposed Project). Finalization of the Wetland Mitigation Plan shall include, but not limited to, identification and discussion of roads to remain and those removed, location of fences, water control structures, ditches to be backfilled and drains to be plugged, etc. The final Wetland Mitigation Plan shall be submitted to the COE for approval prior to construction of the Parkway. The Wetland Mitigation Plan shall also include a plan to control noxious and/or invasive plants.

To mitigate for lost Slope Wetland wildlife functions (FCU 5), a minimum of two (2) shallow groundwater wells shall be drilled on that part of the Mitigation Lands known as the "Legacy Nature Preserve". Should the wells prove unfeasible, the permittee shall propose some other means to replace this function. This will be part of the final Wetland Mitigation Plan.

To mitigate for lost aquatic habitat at the Bountiful Pond, the permittee shall replace an equal amount of open water area contiguous with the pond. This will be part of the final Wetland Mitigation Plan.

- 1-2 Wetland mitigation will also include the acquisition of approximately 1,251 acres of land, identified in the FEIS as the Legacy Nature Preserve, and the additional 317 acres known as the Special Wildlife Area. In addition, UDOT will acquire approximately 530 acres of land referred to as the Golf Course, Stair Step, Centerville and Thalman properties (collectively referred to as "Mitigation Lands."). Total Mitigation Lands shall be 2,098 acres.

UDOT will record a Covenant and Use Restriction (Restrictions) with the Recorder of Deeds for all Mitigation Lands. The Restrictions to be placed on the Mitigation Lands are as follows:

- 1) Management and maintenance of the mitigation site, known as the "Mitigation Lands", shall conform to the approved Wetland Mitigation Plan for Department of the Army Permit No. 199650197;
- 2) No discharge of dredged or fill material or excavation in the Mitigation Lands shall be allowed, including the construction of buildings, trails or other structures, unless authorization is first obtained from the COE. The exception will be the 80 acres within that property known as the "Legacy Nature Preserve" (LNP), as discussed below, that may be used for public education and information;
- 3) No animals, including livestock and/or pets are allowed;

revegetation is necessary, only plants native to Great Salt Lake ecosystem may be used. The planting lists must be approved by the COE before revegetation occurs.;

- 5) Vehicular access, other than what is necessary for operation and maintenance of the Mitigation Lands, is prohibited. This includes OHV's, mountain bikes, etc.;
 - 6) Hunting on all Mitigation Lands is prohibited;
 - 7) Public access, except on the 80 acres discussed below, is prohibited without the approval of the COE;
 - 8) Hydrologic modification of wetlands within the Mitigation Lands, except as described in the Wetland Mitigation Plan, is prohibited. This includes modifying existing wetland types through diking, damming, dredging or other such means;
 - 9) These covenants and restrictions are to run with the land and shall be binding on all successors and assigns of the owner;
 - 10) These covenants and restrictions may not be vacated, removed, modified, amended or altered without written consent of the COE
- 1-3 The permittee shall survey and record the mitigation properties with the County Recorder. The survey shall contain a legal description of the mitigation properties and deed restrictions identifying the properties as wetland mitigation sites in perpetuity. A copy of the attached record of conditions, covenants, and restrictions shall be recorded with the County Recorder and a copy of the recordation will be provided to the Utah Regulatory Office within ninety (90) days of the acquisition of each mitigation property.
- 1-4 Recognizing the value of the Mitigation Lands to the perpetuation of important wetland functions, and the public's interest in viewing and enjoying this resource, the COE will allow a maximum of eighty (80) acres of the Legacy Nature Preserve (LNP) to be set aside for public information and education. The precise location of this set-aside shall be coordinated with the COE so that the 80 acres does not compromise the integrity of the overall wetland functions of the LNP. Trails, kiosks signage and observation decks/towers may be a part of the 80 acre site. The location of all such amenities shall be coordinated with the resource agencies and approved by the COE.

Should the UDOT choose to develop such a site, a separate operational/management plan governing the 80 acres shall be prepared and approved by the COE. The 80 acres will be surveyed and recorded separate from the remainder of the Mitigation Lands and identified as a public use area with the same suite of deed restrictions as discussed above. The exception is to allow the placement of trails and structures

mitigation as required in COE approved operational/management plan.

- 1-5 For those portions of the Mitigation Lands that were not included in the Wetland Mitigation Plan identified in paragraph 1-1, above, UDOT will submit a proposal for wetland restoration/enhancement to the COE within ninety (90) days of issuance of the Permit. Upon review and approval by the COE, UDOT will meet all terms provided in the approved plan for those Mitigation Lands.
- 1-6 The permittee shall initiate implementation of the Wetland Mitigation Plan before or concurrent with the construction activities of the Legacy Parkway Project. Within 60 calendar days after the completion of the required mitigation, the permittee will provide the COE with an as-built survey of the mitigation site.
- 1-7 The permittee shall submit an annual report by December 31 during the implementation of Phase I and for five years following completion of Phase I of the mitigation plan. It will present the findings of the mitigation site monitoring to assist in the tracking of the success of mitigation efforts. After completion of five years of monitoring, the COE will evaluate, on a periodic basis, the frequency of the future monitoring and reporting for Phase II of the mitigation plan.

If the sampling and monitoring indicate a frequent need for management changes, the frequency of monitoring and reporting will be greater. If the sampling and monitoring indicate successful mitigation of the mitigation areas, then the frequency of monitoring and reporting may be reduced. Monitoring and reporting is planned for the first five years unless the COE determines after that time period that additional activities are required to determine the success of the mitigation. Annual costs of managing and maintaining the mitigation properties will be documented the first five years to help determine the amount of endowment needed to provide for the long-term operation and maintenance of the mitigation properties. Phase III of the mitigation plan is the long-term maintenance and management of the mitigation properties.

- 1-8 The permittee shall provide for a long-term financial package to support monitoring and reporting activities of the mitigation properties (avian species, plant communities, water chemistry, hydrology, and photo documentation) as long as required by the COE.

The permittee shall also provide for a long-term financial package to support management and maintenance of the mitigation properties so that wetland functions are maintained in perpetuity.

In the event that the permittee proposes to transfer responsibility for the Mitigation Lands or any part thereof, the permittee will advise the COE no later than ninety (90) days in advance of the transfer. With the notification, the permittee will provide the COE with adequate assurances that the Mitigation Lands will be maintained and supported to preserve the mitigation objectives required by this Permit. The

1-9 Mitigation Plan Implementation

Phase I – Land acquisition; install perimeter fence, gates, and signs; remove livestock; remove trash, debris, illegal fills, etc; remove interior fences; remove structures (shed, buildings, corrals, etc.); install water control structures, install low berm, minimally modify the main southern channel; minimally modify the abandoned distributary channels in the northern area of the Jordan River floodplain; excavate channel to the Jordan River; remove unnecessary roads; fill in unnecessary ditches; characterize water quality of all water to be used in the hydrologic restoration/enhancement of the Jordan River floodplain (see section 4-3 below); develop and implement a plan to manage all external water entering the Jordan River floodplain; and continue baseline monitoring. One-third of the Phase I activities shall be completed each year for three years beginning with the issuance of the permit. Documentation of the incremental completion of the Phase I activities shall be submitted to the COE annually (see General Condition G-1, below). Construction progress of the Parkway shall be contingent upon meeting the annual Phase I goals. In addition, all mitigation property will be acquired except for parcels in condemnation, prior to opening any segment of the Legacy Parkway to traffic.

Phase II – Adaptive management and monitoring will begin the first year following the completion of Phase I and will last for at least five years or until the mitigation properties are fully functional.

Phase III – Long-term operation and maintenance of the mitigation properties either directly by UDOT or through a qualified third party will begin after the completion of Phase II and will continue in perpetuity.

1-10 Mitigation success –

1) Jordan River floodplain, northern portion (mini-Great Salt Lake):

Each wetland HGM Class (Depression and Lacustrine) shall be stratified into similar subclasses, e.g., unvegetated mudflat, mudflat/pickleweed, saltgrass dominated, pickleweed dominated, etc., and a biological profile developed for each subclass. This profile will characterize and quantify the plant communities in terms of species richness, species abundance, cover and percent bare-ground.

- Because one of the objectives of the mitigation is to maintain the habitat characteristics of the various subclasses as described above, a Measure of Similarity, such as the Sorenson Measure of Similarity³ (quantitative

³ Magurran, Anne E. Ecological diversity and its measurement. New Jersey: Princeton University Press, 1988.

subclasses. Either the existing baseline habitats (subclasses) of the mitigation site or reference standard wetland of the same HGM subclass shall be used as the communities for comparison. The Sorenson Measure of Similarity rates habitat similarity on a scale of 0 (no similarity) to 1 (high similarity) and will be used as the success criterion. A Similarity Index of 0.75 will determine success. For example, a pickleweed dominated mudflat subclass within the Depression HGM Class, will be at least 75 percent similar to its control.

- Another objective of the mitigation is to maintain the relative diversity of habitats types (wetland subclasses). Success will be determined by maintaining within +/- 25 percent, as determined by area, the various HGM subclasses as described above. This allows flexibility in an adaptive management strategy to work with natural plant successional changes.
 - Mitigation activities in this region will focus on restoring/enhancing the degraded wetlands and managing them in perpetuity for a continuing diversity of habitats that provide foraging, resting, and nesting areas for the range of species that will be displaced by Legacy Parkway. The hydrology of the floodplain will be improved by providing a permanently controlled water delivery system. The goal of this hydrologic enhancement will be to increase species diversity and populations while maintaining existing habitat diversity.
- 2) For the mini-Jordan portion of the Jordan River floodplain (southern portion), it will consist of providing a reliable year round water flow and constructing the water control structures committed to in the FEIS and allowing a natural occurring plant community to evolve into a diverse habitat.
 - 3) LNP Upper Playas, Special Wildlife Area, Centerville, Golf Course, Stair Step and Thalman properties:
- Preserve habitats in a natural condition by maintaining fences, controlling trespass, controlling noxious and/or invasive plants, removing unnecessary roads, plugging/removing unused ditches, removing trash, debris, illegal fills, structures, grazing, etc., as described in Section 7 above.

1-11 In order to restore and enhance aquatic habitats on the Jordan River mitigation site and to maintain the mitigation properties in perpetuity, the permittee shall construct and maintain a water management system consisting of water diversion structures, ditches, berm, control gates, etc. to manage the mitigation site hydrology. Excavation may be required to hydrologically link some depressional areas and to allow continuous free flow

COE all general arrangements, contract sections, contractor's storm water prevention plan, and hydrologic designs for review, comment, and approval prior to start of construction of the mitigation effort.

- 1-12 The permittee shall permanently guarantee all necessary water rights to maintain the hydrology necessary to provide and maintain the wetland functions. Documentation that sufficient water has been secured shall be submitted to the COE.

a) Jurisdictional Waters and Other Waters of the United States – Other Waters of the US

- 2-1 Mitigation of Other Waters of the United States will be implemented as identified in Table 4-40 of the FEIS for Water Bodies and Wildlife – Surface Water and Wildlife.

- 2-2 This mitigation consists of the restoration of approximately 7,750 feet of stream channel within the Legacy Nature Preserve as described above. Mitigation also includes construction of natural substrate culverts along perennial streams and other large drainages requiring 48 inch diameter culverts or larger to facilitate movement of fish, amphibians, and small mammals.

b) Vegetation on Mitigation Properties

- 3-1 The permittee shall employ BMPs during mitigation construction activities to facilitate revegetation efforts by reducing the amount of surface disturbance and erosion. The permittee shall include a list and description of BMPs in the design and construction specifications for the mitigation properties. The BMP's will be reviewed and approved by the COE.

- 3-2 The COE at its option will inspect construction activities on the mitigation properties and following construction to determine if BMP's have been employed effectively.

c) Vegetation, Avian, Hydrologic, and Water Quality Monitoring

- 4-1 The permittee shall conduct monitoring studies of vegetation and avian surveys in accordance with the conditions described above. The avian monitoring shall continue as it has been done since 1999 via a mixture of walking and point counts. Species richness and abundance shall be determined and documented. The vegetation monitoring shall also continue as it has since 1999 along the six original transects and as described in paragraph B3.3.4.4 of Appendix B3 to the FEIS. Similarly, plant species richness and abundance will be determined and documented.

hydrologic management of the Jordan River floodplain.

- 4-3 The permittee shall also conduct an analysis of water quality on all waters to be used for the hydrologic restoration/enhancement of the Jordan River floodplain. At a minimum, water quality shall meet standards established by the Utah State Division of Water Quality for Class 3D waters: Protected for waterfowl, shorebirds and other water-oriented wildlife (R317-2, Utah Administrative Code). A report characterizing the water quality shall be submitted to the COE at the beginning of Phase I.

d) UPDES Permit

- 5-1 The State of Utah, Division of Water Quality (UDWQ), Department of Environmental Quality requires that discharges from the facility be regulated under a Utah Pollutant Discharge Elimination System (UPDES) permit. The design-build contractor will be required to obtain the permit authorizing the discharge of storm water from construction activities prior to the initiation of construction.

A Storm Water Pollution Prevention Plan is required to identify potential sources of pollution, including sediments, and to provide sediment and erosion controls and storm water management practices that will prevent pollution. Failure of the permittee to comply with all requirements, conditions, and management practices and Storm Water Pollution Prevention Plans required by the above referenced UDWQ Storm Water Discharge Permit may result in the modification, suspension, or revocation of the COE 404 permit.

- 5-2 As identified in 4.10.2 of the FEIS, no UPDES permit for operational discharges is anticipated because of the use of equalization culverts that keep storm water discharge less than 5 cfs. However, should the design-build contractor decide to modify the design of storm water discharge so that an UPDES permit is required, then the contractor will be responsible for obtaining the permit and conducting any required coordination.

e) Section 401 Water Quality Certification

- 6-1 The permittee has received and agree to comply with the provisions of the Section 401 Water Quality Certification granted by the State of UDWQ on December 15 , 2000, State I.D.U.T. 000718-010.
- 6-2 The Permittee shall implement the water quality mitigation identified in Table 4-40 of the FEIS. Specifically these measures include the planting of vegetation filter strips on all cleared areas of the ROW and constructing equalization culverts.

f) Hazardous Substances

7-1 The permittee will coordinate with the State of Utah Division of Response and Remediation concerning construction that could impact the known hazardous wastes sites identified in Section 4.17.3 of the FEIS.

g) Threatened and Endangered Species

8-1 The U.S. Fish and Wildlife Service, as a result of consultation under Section 7 of the Endangered Species Act, has issued a Biological Opinion addressing the bald eagle. The Service's B.O. is contained in Appendix D of the FEIS. The B.O. concluded that the proposed action will likely adversely affect the bald eagle, but not likely to jeopardize the continued existence of the species. The peregrine falcon had been part of that opinion but has been de-listed by the Service. In its B.O. the Service has recommended Reasonable and Prudent Measures as they pertain to the bald eagle. UDOT must comply with the terms and conditions of the B.O.

h) Wildlife

9-1 The permittee shall follow the protection and notification procedures for the peregrine falcon that are detailed in Table 4-40 of the FEIS.

9-2 The permittee shall conduct preconstruction raptor studies to identify active nests. If nests are determined to be active, coordination with the USFWS and the UDWR will occur and appropriate actions will be taken pursuant to the Migratory Bird Treaty Act and the USFWS Raptor Guidelines to ensure the least amount of impact to the species.

9-3 The permittee shall acquire and manage the 317 acres of mitigation property agreed to in discussions with the USFWS and identified in Table 4-40 of the FEIS. This area will be managed in the same manner as identified in permit condition 1-9 and 1-10, 3) above.

9-4 Failure of the permittee to follow these provisions may result in the modification, suspension, or revocation of the COE 404 permit.

i) Floodplain

10-1 The permittee shall construct major drainage structures to pass the 100-year flood without changing the FEMA floodway.

10-2 The permittee shall construct equalization culverts or an equivalent to allow floodwater to pass back and forth beneath the Parkway.

- 11-1 The Lehigh parkway will impact one historic property and two archaeological sites that are eligible for the National Register of Historic Places. The FHWA, as the lead federal agency, is responsible for assuring compliance with Section 106 of the Historic Preservation Act.

In order to mitigate the impact of the project on the three resources, the permittee will conduct recordation and data recovery activities as stipulated in the Memorandum of Agreement among the FHWA, UDOT, SHPO, and the ACHP that is included in the FEIS as Appendix O.

k) Air Quality

- 12-1 The State UDEQ, Division of Air Quality must grant the permittee an approval order to control and mitigate air emissions related to construction and operation of the Parkway. The permittee shall submit a summary of the status of compliance with the UDEQ Approval Order in its annual status report to the COE.

- 12-2 Failure of the permittee to follow these provisions may result in the modification, suspension, or revocation of the COE 404 permit.

l) Visual

- 13-1 The permittee will implement the visual impact plantings that are identified in Table 4-40 of the FEIS.

ADDITIONAL CONDITIONS

- A-1 In order to ensure that all permit conditions are implemented, an annual report shall be prepared by the permittee, submitted to the COE Utah Regulatory Office, and due at the end of the first year following the permit issuance for review and approval. The report shall present a detailed discussion of the status of compliance with each of the permit conditions.
- A-2 In order to ensure that all special conditions and appropriate mitigation measures have been incorporated into construction specifications and mitigation plans prior to the start of construction, UDOT will provide to the COE written verification that these measures have been incorporated into construction specifications and its contractors have agreed to abide by them.
- A-3 The permittee shall allow authorized COE to inspect facilities or activities, including monitoring and control equipment and practices required under this permit as well as those necessary for assuring permit compliance.

suspension, or revocation and/or fines. The permittee shall give advance notice to the COE of any planned changes in the permitted activity that may result in noncompliance of the permit requirement.

- A-5 All Committed Mitigation and Monitoring, described in Section 7 above, shall be performed in its entirety.
- A-6 Any action not specified in the Wetland Mitigation Plan is prohibited unless approved by the COE.
- A-7 The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for permit modification, suspension or revocation and/or fines. The permittee shall give advance notice to the COE of any planned changes in the permitted activity, which may result in noncompliance of permit requirements.